

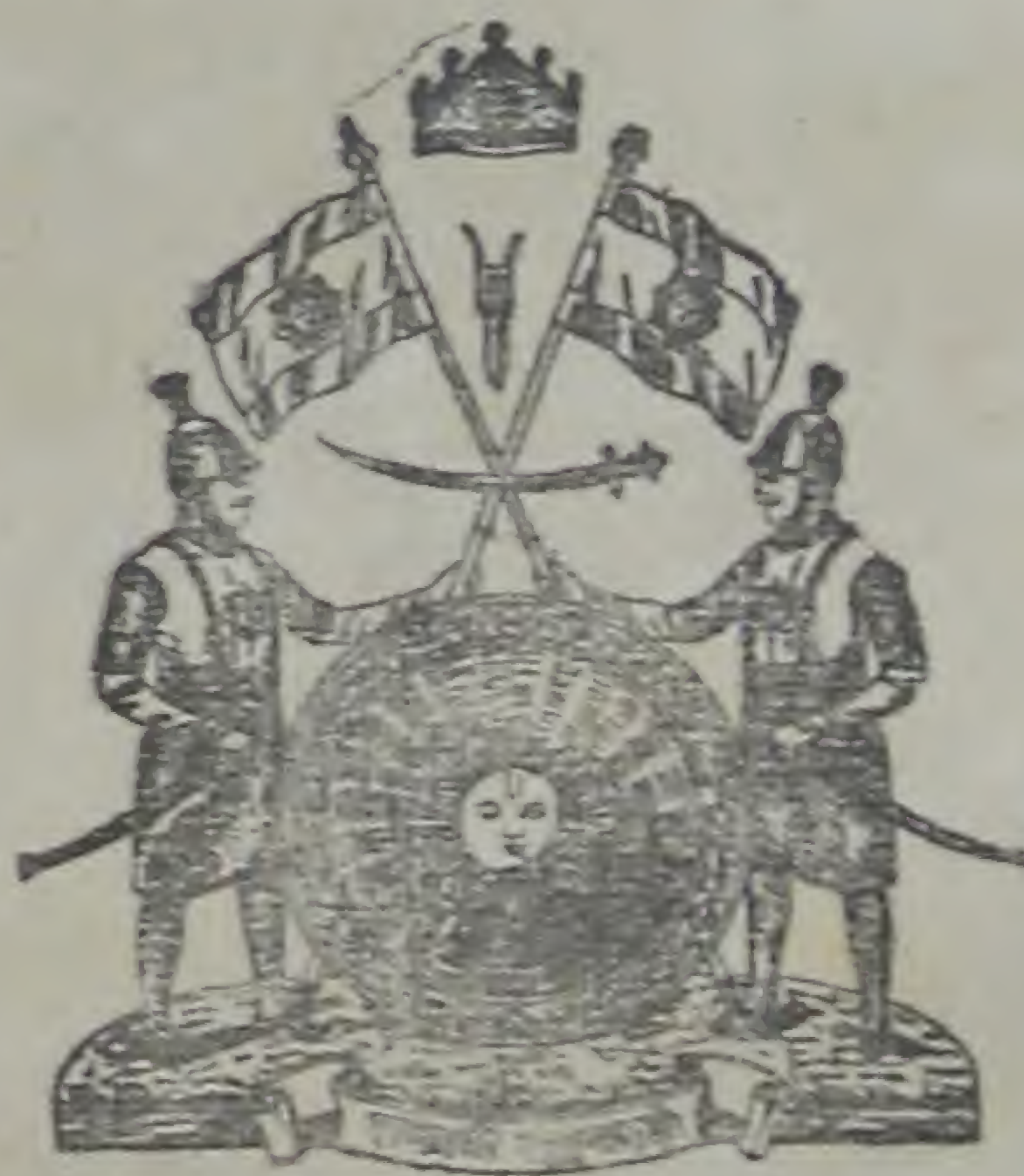
HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

MANUAL

OF

JAMMU AND KASHMIR MILITARY LAW

1989.



Jammu and Kashmir Army Department.

JAMMU :

Printed at The Ranbir Government Press.

1934.

Manual of Jammu and Kashmir Military Law 1989.

Military Law - J&K

343.0109546

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ERRATA.

Reference.	Incorrect word or expression.	Correct word or expression.	REMARKS.
Page 1, 4th line from top.	Government	government	"G" to be small.
Page 16, Section 31 (d) 2nd line.	Miliitary	Military	
Page 38, Section 86 (1) 2nd line.	Attemping	Attempting	
Page 41, 93 (2) 5th line	Trail	Trial	
Page 44 Section 103 line 7.	Provided, that,	Provided that	Both the commas to be omitted.
Page 48, Section 112 (2)	Provided, that,	Provided that,	Comma after the word "provided" to be omitted.
Page 70, Section 7 (x).	.....	.....	To be considered as cancelled.
Page 80, Section 16 (a) (1).	Trail	Trial	
Page 83, Section 25 last line.	Corut martial	Court-martial	
Page 84, Section 26 line 5.	Court martial.	Court-martial.	Hyphen between Court & martial.
Page 107, Section 75 (b) line 4.	Determine,	determine...	Coma after "deter- mine" to be omitted.
Page 107, Section 75 (a) line 5.	aud	and	
Page 113, Section 91 (c) line 3.	whrether ...	Whether	letter "w" to be Capital.

Page 173, line 13 from bottom.	at oclock ...	at—o'clock	There should be space between the words "at" and "o clock"
Page 173, Line 10 from bottom.	the by Presi- dent.	by the Presi- dent.	
Page 175, Last line	... li ...	... if.	
Page 177, Instruction before charge sheet.	objeetion ...	objection	
Page 180, 6th line	... accordanee	accordance	
Page 180, 12th line	... sufficient, ...	sufficient	Coma after the word "sufficient" is superfluous.
Page 181, 12th line	... charaetor ...	character	
Page 184, 14th line	... pusuant ...	pursuant	
Page 189, Marginal note.	accussed ...	accused	
Page 194, line 2 of Instruction.	preduced ...	produced	
Page 194, line 9 of Instruction.	eertified ...	certified	
Page 195, line 5 from bottom.	anuity ...	annuity	
Page 202, line 4	... O address ...	No address	
Page 202, 6 after variation.	a ...	as	
Page 204, Instruction...	been compli- ed with.	have been complied with	
Page 211, Column 2 last item.	civli ...	civil	
Page 215, Foot note (b)	of ...	or	
Page 218, Column 2 (c) 4th line.	a d ...	and.	
Page 222, last line	... Filed ...	Field.	
Page 239, 3rd line from bottom.	Comma after the word "if".	Comma before the word "if"	

THE JAMMU AND KASHMIR ARMY REGULATION.

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REGULATION No. XIV OF 1989.

A Regulation to consolidate and amend the law relating to the Government of His Highness' Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the Government of the Officers, soldiers and other persons in His Highness' Forces; it is hereby enacted as follows : —

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Jammu and Kashmir Army Regulation No. XIV of 1989. Short title and commencement.

(2) It shall come into force on such date as His Highness may, by notification in the Jammu and Kashmir Government Gazette, direct in this behalf.

Application of Regulation.

2. (1) The following persons shall be subject to this Regulation : — Persons subject to Regulation.

(a) Officers and warrant Officers ;

(b) Persons enrolled under this Regulation ;

(c) Persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by His Highness by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Highness' Forces.

(2) Every person subject to this Regulation under sub-section (1), clause (a) or (b) shall remain so subject until duly discharged or dismissed.

CHAPTER I — *Preliminary* — (continued).

Special provision as to rank in certain cases.

3. (1) His Highness may, by notification, direct that any persons or class of persons subject to this Regulation under section 2, sub-section (1), clause (c), shall be so subject as officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Regulation other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officers.

Commanding Officer of persons subject to military law under section 2, sub-section (1), clause (c).

4. Every person subject to this Regulation under section 2, sub-section (1), clause (c), shall for the purposes of this Regulation, be deemed to be under the Commanding Officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his Commanding Officer by the Officer Commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

Power to apply Regulation to certain forces under the Government of His Highness.

5. (1) His Highness may, by notification, apply all or any of the provisions of this Regulation to any force raised and maintained in the State under the authority of His Highness.

(2) While any of the provisions of this Regulation apply to any such force, His Highness may by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

CHAPTER I—*Preliminary*—(continued).

6. (1) Whenever persons subject to this Regulation are serving.— Officers to exercise powers in certain cases.

(a) out of the State under an officer not subject to the authority of His Highness, or

(b) in the State under an officer commanding any military organization not in this section specifically named and being in the opinion of His Highness not less than a regiment of Cavalry, Battery of Artillery, or Battalion of Infantry.

His Highness may prescribe the officer by whom the powers which under this Regulation may be exercised by officers commanding brigade areas, shall, as regards such persons be exercised.

(2) His Highness may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as His Highness may think fit.

7. In this Regulation, unless there is something repugnant in the subject or context— Definitions.

(1) "State Officer" means a person commissioned, gazetted, or in pay as an officer holding a Commissioned rank in His Highness' Forces superior to that of a Subedar.

(2) "Indian Officer" means a person commissioned, gazetted or in pay as an officer holding a commissioned rank in His Highness' Forces not superior to that of a Subedar.

(3) "Warrant Officer" means a person appointed, gazetted or in pay as a warrant officer in His Highness' Forces.

(4) "Non-commissioned Officer" means a person attested under this Regulation holding a non-commissioned rank in His Highness' Forces and includes an acting non-commissioned officer.

CHAPTER I — *Preliminary* — (continued).

(5) "Officer" means a State Officer or Indian Officer, but does not include a warrant officer or non-commissioned officer.

(6) "Commanding Officer", when used in any provision of this Regulation with reference to any separate portion of His Highness' forces or to any department, means the State Officer whose duty it is under the Regulation of the army, or, in the absence of any such Regulation by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision.

(7) "Superior Officer", when used in relation to a person subject to this Regulation, includes a warrant officer and a non-commissioned officer.

(8) Omitted.

(9) "Corps" means any separate body of persons subject to this Regulation which is prescribed as a corps for the purposes of all or any of the provisions of this Regulation.

(10) Brigade means a brigade which is under the command of an officer subject to the authority of His Highness.

(11) "Department" includes any division or branch of a department.

(12) "Enemy" includes all armed mutineers, armed rebels, armed rioters, and any person in arms against whom it is the duty of a person subject to military law to act.

(13) "Active service" as applied to a person subject to this Regulation means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

CHAPTER I—*Preliminary*—(concluded).

(14) "Military custody" means the arrest or confinement of a person according to the usages of the service.

(15) "Military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward.

(16) "Court-martial" means a court-martial held under this Regulation.

(17) "Criminal court" means a court of ordinary criminal justice in the State.

(18) "Civil Offence" means an offence which, if committed in the State would be triable by a criminal court.

(19) "Offence" means any act or omission punishable under this Regulation, and includes a civil offence as hereinbefore defined.

(20) "Notification" means a notification published in the Jammu and Kashmir Government Gazette.

(21) "Prescribed" means prescribed by rules made under this Regulation: and

(22) all words and expressions used herein and defined in the Jammu and Kashmir State Ranbir Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or

Procedure
before enrolling
officer.

CHAPTER II—*Enrolment and Attestation*—(continued).

cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Regulation, record or cause to be recorded his answer to each such question.

Enrolment.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall also cause the person to sign the enrolment paper, and the person shall then be deemed to be enrolled.

**Presump-
tion of en-
rolment in
certain
cases.**

10. Every person who has for the space of six months been in the receipt of military pay and been borne on rolls of any corps or department shall be deemed to have been duly enrolled and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Attestation.

**Persons to
be attested.**

11. The following persons shall be attested, namely:—

(a) all persons enrolled as combatants;

(b) all other enrolled persons, prescribed by His Highness.

**Mode of
attestation.**

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person

CHAPTER II—*Enrolment and Attestation.*—(concluded).

to be attested will be faithful to His Highness, His heirs and successors and that he will serve in His Highness' Forces and go wherever he is ordered by land or sea and that he will obey all commands of any officer set over him even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

13. (a) His Highness may dismiss from the service any person subject to this Regulation.

Dismissal
by His
Highness'
Commander-
in-Chief and
Army Minis-
ter.

(b) The Commander-in-chief or the Army Minister may dismiss from the service any person subject to this Regulation other than a State Officer.

14. The officer commanding a brigade area or a prescribed officer, may dismiss from the service any person serving under his command other than an officer or warrant officer.

Dismissal
by officer
commanding
a brigade
area.

15. Omitted.

16. The prescribed authority may in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Regulation.

Discharge.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person setting forth:—

Certificate
to person
dismissed or
discharged.

(a) the authority dismissing or discharging him;

(b) the cause of his dismissal or discharge;

CHAPTER III - *Dismissal and Discharge.*—(concluded).

(c) the full period of his service in the Army.

Discharge
etc. out of
State.

18. (1) Any person enrolled under this Regulation who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of the State, and requests to be sent to the State, shall before being discharged, be sent to the State with all convenient speed.

(2) Any person enrolled under this Regulation who is dismissed from the service and who, when he is so dismissed, is serving out of the State, shall be sent to the State, with all convenient speed :

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment for life or imprisonment, a portion of such other punishment may be inflicted before he is sent to the State.

CHAPTER IV.

SUMMARY REDUCTIONS AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

Reduction
of non-com-
missioned
officers.

19. (1) The Commander-in-Chief, the Army Minister, an officer commanding a brigade or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command.

(2) The Commanding Officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

Minor pun-
ishments.

20. (1) The Commander-in-Chief may, subject to the control of His Highness, specify the minor punishments to which persons subject to this Regulation shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

CHAPTER IV—*Summary Reductions and punishments otherwise than by order of Court-martial* – (continued).

(2) Imprisonment in military custody, and in the case of persons subject to this Regulation on active service, any prescribed field punishment may be specified as minor punishments, provided that :

(a) the term of such imprisonment or field punishment shall not exceed twenty-eight days : and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded was of or above such rank.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the Army Minister may, after obtaining the report of a court of inquiry, impose a collective fine upon the officers, non-commissioned officers and men of such unit or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Collective
fines.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any frontier post specified by His Highness by notification in this behalf at which troops are stationed, may punish any follower of such corps or detachment who is subject to this Regulation under section 2, sub-section (1), clause (c) :—

Punishment
of certain
followers.

(a) If such follower is not a menial servant with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees.

(b) If such follower is a menial servant with imprisonment for a term which may extend to seven days, or if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

CHAPTER IV—*Summary Reductions and punishments otherwise than by order of Court-martial*—(concluded).

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer and the officer in charge of any jail shall on the delivery to him of the person of the offender, with a warrant under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost-Marshals.

Appoint-
ment.

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march provost-marshals may be appointed by the Commander-in-Chief or an officer commanding the forces in the field ; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

Duties and
powers.

24. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. He may at any time arrest and detain for trial any person subject to this Regulation who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1) clause (b), any follower who is subject to this Regulation under section 2, sub-section (1) clause (c) and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

25. Any person subject to this Regulation who commits any of the following offences, that is to say :—

Offences
punishable
with death.

- (a) Shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or
- (b) in presence of any enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice; or
- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer; or
- (d) treacherously makes known the watchword to any person not entitled to receive it; or
- (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State; or
- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

CHAPTER V—*Offences*—(continued).

(g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleep upon his post, or quits it without being regularly relieved or without leave ; or

(h) in time of action, leaves his commanding officer or his post or party to go in search of plunder ; or

(i) in time of war, quits his guard, picquet, party of patrol without being regularly relieved or without leave ; or

(j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of His Highness or allied forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ; or

(k) on active service commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving ;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned.

26. Any person subject to this Regulation who commits any of the following offences, that is to say :—

(a) strikes, or forces or attempts to force, any sentry ; or

(b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment ; or

Offences
not punish-
able with
death.

CHAPTER V—*Offences*—(continued).

(c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or

(d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Mutiny and insubordination.

27. Any person subject to this Regulation who commits any of the following offences, that is to say:—

Offences
punishable
with death.

(a) begins, excites, causes or conspires with any other persons to cause or joins in any mutiny; or

(b) being present at any mutiny, does not use his utmost endeavours to suppress the same; or

(c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or

(d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(e) disobeys the lawfull command of his superior officer;

shall, on conviction by court-martial be punished with death, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).

Offences
not punish-
able with
death.

28. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) is grossly insubordinate or insolent to his superior officer in the execution of his office ;
or

(b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field ; or

(c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost marshal, or any such officer, non-commissioned officer or other person ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Desertion.

29. Any person subject to this Regulation who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned.

Harbouring
deserter ab-
sence with-
out leave
etc.

30. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) knowingly harbours any deserter, or who knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended ; or

CHAPTER V—*Offences*—(continued).

- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person;
or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or department; or
- (d) absents himself without leave, or without sufficient cause overstays leave granted to him; or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service fails, without sufficient cause, to rejoin without delay; or
- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or
- (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march; or
- (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave; or
- (i) without proper authority is found two miles or upwards from camp; or
- (j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).*Disgraceful conduct.*

31. Any person subject to this Regulation who commits any of the following offences, that is to say:—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to him; or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or
- (c) wilfully destroys or injures any property of Government entrusted to him; or
- (d) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or
- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen; or
- (f) does any other thing with intent to defraud or to cause wrongful gain to one person or wrongful loss to another person; or
- (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or
- (h) with intent to render himself or any other person unfit for service voluntarily causes hurt to himself or any other person; or

CHAPTER V—*Offences*—(continued).

- (i) commits any offence of a cruel, indecent or un-natural kind, or attempts to commit any such offence and does any act towards its commission ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Intoxication.

32. Any person subject to this Regulation who is *Intoxication.* in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Offences in relation to persons in custody.

33. Any person subject to this Regulation who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned. *Offences punishable with death.*

34. Any person subject to this Regulation who commits any of the following offences, that is to say : — *Offences not punishable with death.*

(a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge ; or

(b) without proper authority releases any prisoner or person placed under his charge or negligently suffers any such prisoner or person to escape ; or

(c) being in military custody leaves such custody before he is set at liberty by proper authority ;

CHAPTER V—*Offences*—(continued).

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Offences in relation to property.

Offences in
relation to
property.

35. Any person subject to this Regulation who commits any of the following offences, that is to say : —

- (a) commits extortion, or without proper authority exacts from any person carriage, portage, or provisions ; or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property ; or
- (c) designedly or through neglect kills, injures or makes away with, ill-treats or loses his horse or any animal used in the public service ; or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipment, instruments, tools, clothing or regimental necessities ; or
- (e) loses by neglect anything mentioned in clause (d) ; or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to Government, or to any military mess, band or institution or to any person subject to military law, or serving with, or attached to, the army ; or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).*Offences in relation to false documents and statements.*

36. Any person subject to this Regulation who commits any of the following offences, that is to say :—

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false ; or
- (b) in making any complaint under section 117, knowingly, makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact ; or
- (c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement ; or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;

False accusations and offences in relation to documents.

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

37. Any person having become subject to this Regulation who is discovered to have made a wilfully false

False answers on enrolment.

CHAPTER V—*Offences*—(continued).

answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Offences in relation to Courts-martial.

Offences in
relation to
Courts-mar-
tial

38. Any person subject to this Regulation who commits any of the following offences, that is to say:—

- (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up: or
- (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting; or
- (c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true;

shall, on conviction by court-martial, be punished with imprisonment or with such less punishment as is in this Regulation mentioned.

Miscellaneous Military Offences.

Miscellane-
ous military
offences.

39. Any person subject to this Regulation who commits any of the following offences, that is to say:—

- (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character; or

CHAPTER V—*Offences*—(continued).

- (b) strikes or otherwise ill-treats any person subject to this Regulation being his subordinate in rank or position ; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten, or otherwise maltreated or oppressed any person, or has disturbed any fair or market or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or
- (d) by defiling any place of worship, or otherwise intentionally insults the religion or wounds the religious feelings of any persons ; or
- (e) attempts to commit suicide and does any act towards the commission of such offence ; or
- (f) being below the rank of warrant officer when off duty, appears, without proper authority, in or about camp or cantonments or in or about, or when going to or returning from, any town or bazar, carrying a sword bludgeon or other offensive weapon ; or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or
- (h) neglects to obey any general or garrison or other orders ; or
- (i) is guilty of any act or omission which though not specified in this Regulation, is prejudicial to good order and Military discipline ;

CHAPTER V—*Offences*—(continued).

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

*Attempts.**Attempts.*

39 A. Whoever attempts to commit an offence punishable by this Regulation or to cause such an offence to be committed, and in such attempt does any act towards the commission, of the offence, may where no express provision is made by this Regulation for the punishment of such attempt, be punished with the punishment provided in this Regulation for such offence.

*Abetment.**Abetment.*

40. Every person subject to this Regulation who abets any offence punishable under this Regulation may be punished with the punishment provided in this Regulation for such offence.

Civil Offences.

Civil Offences committed outside the State or on active service in the State,

41. Every person subject to this Regulation who at any place beyond the State, or when on active service in the State, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Regulation, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say:—

(a) if the offence is one which would be punishable under the law of the State with death, or with imprisonment for life, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the State; and

(b) in other cases, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the State, or such punishment as might be awarded to him in pursuance of this Regu-

CHAPTER V – *Offences*—(concluded).

lation in respect of an act prejudicial to good order and military discipline.

42. Every person subject to this Regulation who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Jammu and Kashmir State Ranbir Penal Code, or any of the following offences, against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence shall, subject to the provisions of this Regulation be liable to be tried by court-martial, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

Certain civil offences triable by military law.

CHAPTER VI.

PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Regulation, and convicted by court-martial, according to the scale following, that is to say: —

- (a) death;
- (b) imprisonment for life;
- (c) imprisonment either rigorous or simple for any term not exceeding fourteen years;
- (d) dismissal from the service;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowance for a period not exceeding two months;
- (f) reduction, in the case of a warrant officer, to a lower grade or class (if any) of war-

CHAPTER VI—*Punishments*—(continued).

rant officer, or in the case of a non-commissioned officer, to a lower grade or to the ranks;

(g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;

(gg) in the case of officers, reprimand or severe reprimand;

(h) forfeitures and stoppages as follows, namely:—

(i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;

(ii) forfeiture of any military decoration or military reward;

(iii) forfeiture in the case of a person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;

(v) on active service forfeiture of pay and allowances for a period not exceeding three months.

Lower
punish-
ments.

44. Where in respect of any offence under this Regulation there is specified a particular punishment or such less punishment as is in this Regulation mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Regulation as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

CHAPTER VI— *Punishments*—(continued).

45. Where any person, subject to this Regulation and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

Field punishment.

46. Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

Position of field punishment in scale.

47. A sentence of a court-martial may award in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), (gg) and (h) of section 43.

Combination of punishments.

48. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say:—

Military Confinement.

(a) a time not exceeding one month if the term of imprisonment does not exceed six months;

(b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year;

(c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by court-martial to imprisonment for life, imprisonment, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Reduction of non-commissioned officers to ranks.

49A. When any person on active service has been sentenced by court-martial to dismissal or to imprisonment for life or imprisonment whether combined with dismissal or not, the prescribed officer may direct that

Retention in the ranks of a person convicted on active service.

CHAPTER VII—*Penal Deductions*—(concluded).

such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment for life, or imprisonment, such service shall be reckoned as part of his term of imprisonment for life or imprisonment.

CHAPTER VII.

PENAL DEDUCTIONS.

Deductions
from pay
and allow-
ances.

50. The following penal deductions may be made from the pay and allowances of a person subject to this Regulation, that is to say:—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20 or of field punishment awarded by a court-martial or such officer.
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 20.
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Regulation committed by him;
- (cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence,

CHAPTER VII—*Penal deductions*—(continued).

such sum as may be specified by order of the Commander-in-Chief.

- (d) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 43;
- (e) any sum ordered by a court-martial to be stoped under section 43;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessities or military decoration, or to any buildings or property, as may be awarded by his commanding officer;
- (g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21;

Provided that the total deductions from the pay and allowances of a person subject to this Regulation made under clauses (e) to (g) both inclusive, shall not (except in the case of a person sentenced to dismissal), exceed in any one month one-half of his pay and allowances for that month.

Explanation—For the purposes of clauses (a) and (b):—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another; may be reckoned as absence or custody for a day;
- (ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during

CHAPTER VII—*Penal deductions*—(concluded).

any portion of which the person was absent or in custody ; and

- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

Deductions
from public
money other
than pay.

51. Any sum authorized by this Regulation to be deducted from the pay and allowances of any person, may without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Remission
of
deductions.

52. Any deduction from pay and allowances authorized by this Regulation may be remitted in such manner and to such extent, and by such authority as may from time to time be prescribed.

Provision
for
dependants
of prisoners
of war.

52-A. (1) In the case of all persons subject to this Regulation being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-Martial.

53. For the purposes of this Regulation there shall be four kinds of courts-martial, that is to say :—

Courts-martial and the kinds thereof.

- (1) general courts-martial ;
- (2) district courts-martial ;
- (3) summary general courts-martial ; and
- (4) summary courts-martial.

54. A general court-martial may be convened by His Highness, or by an Officer empowered in this behalf by warrant of His Highness.

Power to convene general courts-martial.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Power to convene district courts-martial.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 54 or section 55.

57. A general court-martial shall consist of not less than seven officers unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.

Composition of general courts-martial.

58. A district court-martial shall consist of not less than three officers.

Composition of district courts-martial.

59. Whenever a general court-martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available and such statement shall be conclusive evidence of the fact so stated.

Convening order to state if larger number of officers is not available.

CHAPTER VIII—*Courts-Martial*—(continued).

Composi-
tion of
general or
district
courts-
martial.

60. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, be either State or Indian Officers, or partly State and partly Indian Officers.

Claim to
trial by
State
officers.

61. (1) Any person subject to this Regulation who is under orders for trial by general or district court-martial may claim to be tried by State Officers.

(2) In all cases the right of making such claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf and, when such a claim is made, the court shall be constituted accordingly.

Convening
of summary
general
courts-
martial.

62. The following authorities shall have power to convene a summary general court-martial, namely:—

- (a) an officer empowered in this behalf by an order of His Highness;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Highness' troops upon active service when, in his opinion, it is not practicable with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composi-
tion of
summary
general
court-
martial.

63. A summary general court-martial shall consist of not less than three officers.

Summary
courts-
martial.

64. (1) A summary court-martial may be held:—

- (a) by the Commanding Officer of any corps or department of His Highness' forces or of any detachment of those forces;

CHAPTER VIII—*Courts-Martial*—(continued).

(b) by the commanding officer of any corps or detachment to which details subject to this Regulation are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

65. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers which it is by this Regulation required to consist, it shall be dissolved; Dissolution of courts.

Provided that a general court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-Martial.

66. When any person subject to this Regulation has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections. Prohibition of second trial.

67. No trial by court-martial of any person subject to this Regulation for any offence, other than an offence of mutiny, desertion or fraudulent enrolment, shall be commenced after the expiration of three years from the date of such offence and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for Limitation of trial.

CHAPTER VIII—*Courts-Martial*—(continued).

not less than three years with any portion of His Highness' forces.

Explanation.—For the purposes of this section "mutiny" means any of the offences specified in clauses (a), (b) and (c) of section 27.

Place of trial.

68. Any person subject to this Regulation who commits any offence against it may be tried and punished for such offence in any place whatever.

Adjustment of the Jurisdiction of Courts-Martial and Criminal Courts.

Order in case of concurrent jurisdiction.

69. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial to direct that the accused person shall be detained in military custody.

Power of criminal court to require delivery of offender.

70. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to His Highness.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of His Highness whose order upon such reference shall be final.

Trial by court-martial no bar to subsequent trial by criminal court.

71. (1) Notwithstanding anything contained in section 26 of the General Clauses Regulation 1977 or in section 403 of the Code of Criminal Procedure 1969, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts.

CHAPTER VIII—*Courts-Martial*—(continued).

(2) If a person sentenced by a court martial in pursuance of this Regulation to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment have regard to the military punishment he may already have undergone.

Powers of Courts-Martial.

72. A general or summary general court-martial shall have power to try any person subject to this Regulation for any offence made punishable therein, and to pass any sentence authorized by this Regulation.

Powers of
general and
summary
general
courts-
martial.

73. A district court-martial shall have power to try any person subject to this Regulation other than an officer for an offence made punishable therein, and to pass any sentence authorized by this Regulation other than a sentence of death, or imprisonment for life or imprisonment for a term exceeding two years.

Powers of
district
court-
martial.

74. A summary court-martial may try any offence punishable under any of the provisions of this Regulation.

Offences
triable by
summary
court-
martial.

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33, 41 or 42 or

(b) any offence against the officer holding the court.

75. A summary court-martial may try any person subject to this Regulation and under the command of the officer holding the court, except an officer or warrant officer.

Persons
triable by
summary
court-
martial.

CHAPTER VIII — *Courts-Martial* — (continued).

Sentences
awardable
by summary
court-
martial.

76. A summary court-martial may pass any sentence which can be passed under this Regulation, except a sentence of death or imprisonment for life or of imprisonment for a term exceeding 3 months.

Procedure of trials by Court-Martial.

President.

77. At every general, district or summary general court-martial the senior member shall sit as president.

Judge
Advocate.

78. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be a person appointed by the convening officer.

Superin-
tending
officer.

79. A State officer of not less than four years' service hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Indian officers which is not attended by a judge advocate.

Challenges.

80. (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by an officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

CHAPTER VIII—*Courts-Martial*—(continued).

81. (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused. Voting of members.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge-advocate or superintending officer before the commencement of the trial. Oaths of president & members.

83. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form. Oaths of witnesses.

84. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. Summoning witness and production of documents.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Evidence Regulation 1977, sections 123 and

CHAPTER VIII—*Courts-Martial*—(continued).

124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, high court or court of session, wanted for the purpose of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, or court.

Commis-
sions.

85. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the General Staff Officer (or the Judge Advocate General when the trial is made on active service outside the State), in order that a commission to take the evidence of such witness may be issued.

(2) The General Staff Officer or the Judge Advocate General as the case may be, may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose Jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in British India or in the territories of any prince or chief in India, the commission may be issued in the manner prescribed in this behalf.

(4) The magistrate to whom the commission is issued, or, if he is the district magistrate, he or such

CHAPTER VIII—*Courts-Martial* (continued).

magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal Procedure, 1969.

(5) and (6) Omitted.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such magistrate by pleader or, except in the case of an accused person in custody, in person and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the General Staff Officer or the Judge Advocate General as the case may be.

(10) On receipt of a commission and deposition returned under sub-section (9), the General Staff Officer or the Judge Advocate General shall forward the same to the court at whose instance the commission was issued, or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a

CHAPTER VIII—*Courts-Martial*—(continued).

specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression “Judge Advocate General” means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

Conviction
of one offence
permissible
on charge of
another.

86. (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest mis-appropriation or conversion to his own use of property entrusted to him or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1969, were applicable.

(5) A person charged before a court-martial with any other offence under this Regulation may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(6) A person charged before a court-martial with any offence under this Regulation may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

CHAPTER VIII—*Courts-Martial*—(continued).

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Majority
requisite to
sentence of
death.

Evidence Before Courts-Martial.

88. The Evidence Regulation 1977 shall, subject to the provisions of this Regulation, apply to all proceedings before a court-martial.

General
rule as to
evidence.

89. A court-martial may take judicial notice of any matter within the general military knowledge of the members.

Judicial
notice.

90. In any proceeding under this Regulation any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Presump-
tion as to
signatures.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Regulation, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

Enrolment
paper.

91-A. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Highness' Forces, or respecting the circumstance of any person not having served in or belonged to any portion of His Highness' Forces, if purporting to be signed by or on behalf of His Highness, or the Commander-in-Chief or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

Presum-
tion as to
certain do-
cuments.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and

CHAPTER VIII—*Courts-Martial*—(continued).

rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book in pursuance of this Regulation or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Regulation is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a provost-marshal, assistant provost-marshal or other officer, or any portion of His Highness' Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Highness' Forces and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(6) When any person subject to this Regulation is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or

CHAPTER VIII—*Courts-Martial*—(continued).

thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Regulation.

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

Reference
by accused
to Govern-
ment officer

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

93. (1) When any person subject to this Regulation has been convicted by a court-martial of any offence, such court martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

Evidence of
previous con-
victions and
general
character.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed as of his

CHAPTER VIII—*Courts-Martial*—(continued).

own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and revision of finding and sentences.

Finding & sentence invalid without confirmation.

94. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Regulation.

Power to confirm finding and sentence of general court-martial.

95. The findings and sentence of general courts-martial may be confirmed by His Highness or by any officer empowered in this behalf by warrant of His Highness, but a sentence of death or imprisonment for life shall require to be confirmed by His Highness.

Power to confirm finding and sentence of district court-martial.

96. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court martial, or by any officer empowered in this behalf by warrant of any such officer.

Contents of warrant issued under section 95 or section 96.

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Confirmation of finding and sentence.

98. (1) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer or if the convening officer so directs by an authority superior to the convening officer in the following cases except the cases mentioned in sub-section (3) and (4):—

(a) in the case of the trial of an officer.

(b) in the case of an acquittal or a sentence of imprisonment for a term exceeding two years, and

(c) in any other case if so ordered by the convening officer.

(2) Save as provided in sub-section (1) a sentence passed by a summary general, court-martial shall not require to be confirmed but may be carried out forthwith.

CHAPTER VIII—*Courts-Martial*—(continued).

(3) The sentence of death or imprisonment for life or imprisonment for a term exceeding seven years shall require to be confirmed by His Highness.

(4) The confirmation of His Highness shall also be necessary in the case of a sentence passed on a State Officer.

Provided that sub-section (3) and (4) will not be applicable in cases where the offence is committed on active service outside the State and it is not possible to get the sentence confirmed by His Highness, with due regard to military discipline.

99. Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the sentence of a court martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial.

Power of confirming officer to mitigate remit or commute sentence.

99-A. When any person subject to this Regulation is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board-ship may be confirmed and executed in like manner as is if such person had been tried at the port of disembarkation.

Confirmation of finding and sentence on board-ship.

100. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or if a district court-martial, of three officers.

CHAPTER VIII—*Courts-Martial*—(continued).

Finding and
sentence of a
summary
court-martial.

101. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

Transmis-
sion of pro-
ceedings of
summary
court-martial.

102. The proceedings of every summary court-martial shall, without delay, be forwarded to the Army Minister or to the prescribed officer; and such officer, or the Commander-in-Chief, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

Substitua-
tion of valid
for invalid
sentence

103. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence.

Provided, that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

Provision
in the case of
accused being
insane.

103-A. (1) Whenever in the course of a trial by court-martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

CHAPTER VIII—*Courts-Martial*—(concluded).

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for orders of His Highness.

(4) On receipt of a report under sub-section (3), His Highness may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention the prescribed officer may —

(a) if such person is in custody under sub-section (3) on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4) on a certificate such as is referred to in section 473 of the Code of Criminal Procedure 1969,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to His Highness.

CHAPTER IX.

EXECUTION OF SENTENCES.

Form of sentence of death.

104. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender, shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Imprisonment to be in military custody.

105. Whenever any person is sentenced under this Regulation to simple imprisonment, such sentence shall be carried out by confinement in military custody.

Commencement of sentence of imprisonment for life or imprisonment.

106. Whenever any person is sentenced under this Regulation to imprisonment for life or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

Execution of sentence of imprisonment for life or imprisonment.

107. Whenever any sentence of imprisonment for life or rigorous imprisonment is passed under this Regulation, or whenever any sentence so passed is commuted to imprisonment for life or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant:

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody;

Provided further that, on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

Execution of sentence of imprisonment in special cases.

108. Whenever, in the opinion of an officer commanding a Brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of sec-

CHAPTER IX—*Execution of Sentences*—(concluded).

ton 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

108-A. Omitted.

109. Whenever an order is duly made under this Regulation setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer incharge of the prison in which such person is confined.

Communications of certain orders to Civil prison officers.

110. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement.

111. Omitted.

111-A. When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within the State or not, a copy of such sentence signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in the State, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1969, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

Execution of sentence of fine.

CHAPTER X.

PARDONS AND REMISSIONS.

112. (1) When any person subject to this Regulation has been convicted by a court-martial of any offence, His Highness, or Commander-in-Chief or in the case of a

Pardons and remissions.

CHAPTER X—*Pardons and remissions*—(concluded).

sentence which he could have confirmed or which did not require confirmation, the prescribed officer may,

- (a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded;
- (b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Regulation:

(2) If any conditions on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided, that, in the case of a person sentenced to imprisonment for life or imprisonment, such person shall under-go only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section be treated as a punishment awarded by sentence of a court-martial.

CHAPTER XI.

RULES.

Power to
make rules.

113. (1) His Highness may make rules for the purpose of carrying into effect the provisions of this Regulation.

CHAPTER XI—*Rules*—(continued).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (a) the discharge from the service of persons subject to this Regulation;
- (b) the amount and incidence of fines to be imposed under section 21;
- (bb) the specification of the punishments which may be awarded as field punishments under sections 20 and 45;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;
- (d) the convening and constituting of courts-martial;
- (e) the adjournment, dissolution and sittings of courts-martial;
- (f) the procedure to be observed in trials by courts-martial;
- (g) the confirmation and revision of the findings and sentences of courts-martial;
- (h) the carrying into effect sentences of courts-martial;
- (i) the forms of orders to be made under the provisions of this Regulation relating to courts-martial, imprisonment for life, or imprisonment;
- (ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions; and

CHAPTER XI—*Rules*—(concluded).

(j) any matter in this Regulation directed to be prescribed.

(3) All rules made under this Regulation shall be published in the Jammu and Kashmir Government Gazette, and, on such publication, shall have effect as if enacted in this Regulation.

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS
AND LUNATICS.

Property
of deceased
persons and
deserters.

114. The following rules are enacted respecting the disposal of the property of every person subject to this Regulation who dies or deserts:—

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in the camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules; and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given

CHAPTER XII—*Property of Deceased persons, Deserters and Lunatics*—(continued).

security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies from the proceeds of the sale and from any pay and the allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall forthwith be remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Highness, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Meaning
of desertion.

CHAPTER XII—*Property of Deceased persons, Deserters and Lunatics*—(concluded).

Disposal
of certain
property
without
production
of probate,
etc.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same to the Government from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Application
of section
114 to luna-
tics, or
missing on
active
service.

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Regulation becoming insane or, who, being on active service, is officially reported missing.

Provided that in the case of a person so reported missing no action shall be taken under sub-section (2) to (5), inclusive, of the said section, until one year has elapsed from the date of such report.

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

Complaints
against
officers.

117. (1) Any person subject to this Regulation who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section

CHAPTER XIII—*Miscellaneous*—(continued).

(1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

118. (1) No president or member of a court-martial no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

Privileges
of persons at-
tending
courts-
martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

119. (1) No person subject to this Regulation shall, so long as he belongs to His Highness' Forces be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

Exemption
from arrest
for debt.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered, costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Regulation, nor any animal used by him for the discharge of

Property
exempted
from attach-
ment.

CHAPTER XIII—*Miscellaneous*—(continued).

his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

121. Omitted.

Priority of
hearing by
courts of
cases in which
persons
subject to
Regulations
are concern-
ed.

122. (1) On the presentation to any court by or on behalf of any person subject to this Regulation of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority, shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

CHAPTER XIII—*Miscellaneous*—(continued).*Deserters and Military Offenders.*

123. (1) Whenever any person subject to this Regulation deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person, for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

Capture of
deserters.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Regulation and to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

124. (1) Any person subject to this Regulation who is charged with an offence may be taken into military custody.

Arrest by
military au-
thority.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay be investigated by the proper military authority, and as soon as may be, either proceedings shall be taken for punishing the offence, or such persons shall be discharged from custody.

125. Whenever any person subject to this Regulation, who is accused of any offence under this Regulation, is within the jurisdiction of any Magistrate or police-officer, such magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Arrest by
civil autho-
rities.

126. (1) When any person subject to this Regulation has been absent without due authority from his duty

Inquiry on
absence of
person

CHAPTER XIII—*Miscellaneous*—(continued).

subject to
Regulation.

for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Regulation, be deemed to be a deserter.

Disposal of Property.

Order for
custody and
disposal of
property
pending trial
in certain
cases.

126-A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for
disposal of
property re-
garding
which offence
committed.

126-B. (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the Brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property, or document, produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

CHAPTER XIII—*Miscellaneous*—(continued).

(2) Where any order has been made under subsection (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within the State or not be sent to a magistrate in any district in which such property for the time being is, and such magistrate shall hereupon cause the order to be carried into effect as if it was an order passed by such magistrate under the provisions of the Code of Criminal Procedure 1969.

Explanation.—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

127. The Rules for the punishment of crime is hereby repealed; Repeal.

Provided that all warrants and orders issued and persons enrolled or attested under its provisions shall be deemed to have respectively been issued, enrolled or attested under this Regulation.

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THE JAMMU AND KASHMIR ARMY REGULATION RULES.

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JAMMU AND KASHMIR ARMY REGULATION RULES.

CHAPTER I.

PRELIMINARY.

1. These rules may be cited as the "Jammu and Kashmir Army Regulation Rules". Short title.

2. In these rules, unless there is anything repugnant in the subject or context, — Definitions.

(a) "Proper military authority", when used in relation to any power, duty, act or matter, means such military authority as, in pursuance of the Regulations of the Army or the custom of the service, exercises or performs that power or duty or is concerned with that act or matter.

(b) "The Regulation" means the Jammu and Kashmir Army Regulation 1989.

3. Any report or application directed by these rules to be made to a superior authority, or proper military authority, shall be made in writing through the proper channel, unless the authority, on account of military exigencies or otherwise, dispenses with the writing. Reports and Applications.

4. (a) The forms set forth in the appendices to these rules, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient, but a deviation from such forms will not, by reason only of such deviation, render any charge, warrant, order, proceedings or other document invalid. Forms in Appendices.

(b) An omission of any such form will not, by reason only of such omission, render any act or thing invalid.

(c) The notes to and instructions in, the forms will be considered as instructions which it is expedient to follow in all cases to which such notes and instructions apply, but shall not have the force of rules.

CHAPTER I—*Preliminary*— (concluded).

Exercise of
power vested
in holder of
military
office.

5. Any power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may be exercised by, or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.

Cases un-
provided for.

6. In any case not provided for by these rules such course will be adopted as appears best calculated to do justice.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolling
officers.

7. The following officers shall be "enrolling officers" for the purposes of section 8 of the Regulation:—

- | | | |
|---|---|--|
| (i) All recruiting officers. | } | As regards all persons. |
| (ii) All assistant recruiting officers. | | |
| (iv) The officer commanding a corps. | } | As regards persons enrolled in that corps. |
| (iv-a) The officer commanding a regiment or a Battalion of a corps. | | |
| (v) The officer commanding a Depot of a corps. | | |
| (vi) The officer commanding a battery. | } | As regards persons enrolled in an artillery corps. |
| (ix) The officer commanding an artillery depot. | | |
| (x) The officer commanding a unit to which the Temple Guards is attached. | } | As regards persons enrolled in Temple Guard. |

CHAPTER II—*Enrolment and Attestation*—(continued).

(xi-a) The officer commanding a Mechanical Transport Company or repair shop.	}	As regards persons enrolled in supply and Transport corps.
(xi) The officer incharge supplies or transport of a station.		
(xiv) The officer commanding a hospital.	}	As regards persons enrolled in the Hospital Corps.
(xviii) The officer incharge of any division or branch of any department.	}	As regards persons enrolled in that department.
(xx) The officer incharge (<i>i. e.</i> Adjutant Quarter-Master General) of a fort armament establishment	}	As regards persons enrolled in an artillery corps as fort armament lascars.
(xxi) The officer incharge forts.	}	As regards persons enrolled in forts.
(xxii) The officer commanding a cavalry as well as officer commanding its Depot.	}	As regards persons enrolled in the corps of cavalry.
(xxii-a) The officer commanding the Training School or Training Battalion.	}	As regards persons enrolled in that corps and for other units.

8. All combatants, and the following enrolled persons other than combatants, shall, when reported fit for duty, be attested as provided in section 12 of the Regulation:—

Persons to be attested.

- (i) Enrolled personnel of the Hospital Corps except persons belonging to the general section of that corps.

CHAPTER II—*Enrolment and Attestation*—(continued).

(ii) Omitted.

(iii) Persons serving in any Corps or Department who may be selected for non-commissioned rank.

Oath or affirmation to be taken on attestation.

9. (a) The oath or affirmation to be taken on attestation will be in one of the following forms or in such other form to the same purport as the attesting officer ascertains to be in accordance with the religion of the person to be attested, or otherwise binding on his conscience.

Form of oath.

I _____ do swear that I will be faithful and bear true allegiance to His Highness the Maharaja Bahadur, His heirs and successors, and that I will, as in duty bound, honestly and faithfully serve in His Highness' Forces and go wherever I may be ordered by land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life. So help me God.

The second person may, when necessary, be substituted for the first in this form of oath, and the words "So help me God" omitted or varied.

Form of affirmation.

I _____ solemnly affirm in the presence of Almighty God that I will be faithful and bear true allegiance to His Highness the Maharaja Bahadur, His heirs and successors, and that I will, as in duty bound, honestly and faithfully serve in His Highness' Forces and go wherever I may be ordered by land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life.

(b) The oath or affirmation prescribed in this rule shall, whenever practicable, be administered by the commanding officer of the person to be attested in the manner described in section 12 of the Regulation. If it is not so administered, it may be administered by a

CHAPTER II—*Enrolment and Attestation*—(concluded).

magistrate or such officer as is hereinafter indicated ; that is to say :—

A recruiting officer or assistant recruiting officer.

The officer commanding a station.

CHAPTER III.

DISMISSAL AND DISCHARGE.

10. Every person enrolled under the Regulation shall, when entitled under the conditions of his enrolment to be discharged, be so discharged with all convenient speed. Discharge not to be delayed.

11. (a) Every Indian officer or warrant officer who is dismissed or discharged shall be furnished by his commanding officer with a certificate setting forth, in respect of such Indian officer or warrant officer, the same matters as are required to be set forth in a certificate furnished under section 17 of the Regulation to a person enrolled thereunder who is dismissed or discharged. A certificate furnished under the provisions of this rule or of section 17 of the Regulation, as the case may be, is hereinafter called a "discharge certificate". Discharge certificates.

(b) * * * *

(c) A discharge certificate may be furnished either by personal delivery thereof by or on behalf of the commanding officer to the person dismissed or discharged or by its transmission by post to such person.

12. The dismissal of a person subject to the Regulation, whose dismissal otherwise than by sentence of a court-martial is duly authorised, or the discharge of a person so subject whose discharge is duly authorised, shall be carried out by the commanding officer of such person with all convenient speed. The authority competent to authorise such dismissal or discharge may, when authorising the dismissal or discharge, specify any future Date from which discharge, or dismissal otherwise than by sentence of court-martial, takes effect.

CHAPTER III—*Dismissal and Discharge*—(continued).

date from which it shall take effect; provided that if no such date is specified the dismissal or discharge shall take effect from the date on which it was duly authorised, or from the date on which the person dismissed or discharged ceased to do military duty, whichever is the later date.

Authorities empowered to authorize discharge.

13. Instructions as to the authorities empowered to authorise the discharge of persons subject to the Regulation, and the procedure to be observed in each case, are contained in the following table. In this table "Commanding Officer" means the officer commanding the corps or department to which the person to be discharged belongs. It also includes as regards persons under their command, the officers specified in items (iii), (iva) to (xviii), and (xx) to (xxia) of Rule 7. Any power conferred by this rule on any authority may be exercised by any higher authority.

Table.

Class.	Cause of discharge.	Competent authority to authorise discharge.	Special Instructions.
Officers and Warrant Officers.	(i) On transfer to the pension establishment.		
	(a) At his own request before attaining the age limit fixed for compulsory retirement.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	Discharge should be carried out within 2 months of application unless war is imminent or existing.
	(b) On attaining the age limit fixed for compulsory retirement, unless retained in the active list as a special case for a further specified period with the sanction of His Highness.	For State Officers—Army Minister. For Indian Officers and Warrant Officers.—Chief of the Military Staff.	Commissioned Officers who consider it desirable to retain on the active list, an officer who is desirous of continuing to serve beyond the date on which he would ordinarily be retired should forward the application to that effect 6 months before that date. In all other cases discharge of an Indian Officer should be carried out in accordance with the provision of Rule II.

CHAPTER III—*Dismissal and discharge*—(continued).

Class.	Cause of discharge.	Competent authority to authorities discharge.	Special Instruction.
Officers and Warrant Officers.	(ii) On resignation of his Commission or Warrant.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	To be carried out only on the recommendation of an Invaliding Board.
	(iii) Having been found medically unfit for further service.	For State Officers. Army Minister. For Indian Officers and Warrant Officers.—Chief of the Military Staff.	
	(iv) On transfer to the pension establishment otherwise than under items (i) and (ii).	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
	(v) With gratuity otherwise than at his own request or under item (iii).	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
	(vi) His service being no longer required.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
Persons enrolled under the Regulation who have been attested.	From vii to xi (both inclusive) omitted.		
	(xii) On terminating service (with or without pension or gratuity).	.....	To be carried out in accordance with the conditions of his enrolment and with section 18 of the Regulation and Rules 10, 11 and 12.
	At his own request, having fulfilled the conditions of his enrolment.	Brigade Commander.	Applicable to persons whose discharge on completion of the period for which they were enrolled is not obligatory, and to persons dischargeable under item (xii) (a) who have been allowed to continue to serve.
	(xiii) On completion of service (with or without pension or gratuity).		To be carried out in accordance with the conditions of his enrolment and with section 18 of the Regulation and Rules 10, 11 and 12.

CHAPTER III—*Dismissal and discharge*—(continued).

Class.	Cause of discharge.	Competent authority to authorise discharge.	Special instructions.
Persons enrolled under the Regulation who have been attested.— <i>contd.</i>	(a) Otherwise than at his own request having reached the stage at which discharge may be enforced.	Persons below the rank of Havildar (or equivalent rank)—Brigade Commander. Persons of the rank of Havildar (or equivalent rank)—Chief of the Military Staff.	(a) Applicable to persons who have earned pension or gratuity whose discharge otherwise than at their own request may, under the conditions of their enrolment, be enforced after a specified period of service.
	(b) On termination of engagement.	Brigade Commander.	(b) Applicable to persons whose discharge on termination of their engagement is, under the conditions of their enrolment, obligatory.
	(c) Omitted.		
	(d) Having reached age for discharge.	Brigade Commander.	(d) Applicable to persons whose discharge is obligatory on reaching the age fixed under the conditions of their enrolment.
	(xiv) Having been found medically unfit for further service.	" "	To be carried out only on the recommendation of an Invaliding Board.
	(xv) Having re-entered the service after being dismissed or discharged, without, at the time of such re-entry, stating the fact of his previous dismissal or discharge, or showing his certificate of dismissal or discharge.	" "	
	(xvi) Not being a good rider.	" "	Only applicable to persons enrolled as combatants in a mounted corps and whose duties require them to be mounted. Liability to discharge under this item ceases on completion of three years' service from date of enrolment.
	(xvii) On transfer to the pension establishment, or with gratuity, otherwise than under items (xii), (xiii) or (xiv).	Chief of the Military Staff.	

CHAPTER III—*Dismissal and discharge*—(concluded).

Class	Cause of discharge.	Competent authority to authorise discharge.	Special instructions.
<p>Persons enrolled under the Regulation but not attested.</p> <p>Persons enrolled under the Regulation who have been attested.</p>	(xvii-a) On compassionate grounds before fulfilling the conditions of his enrolment.	Chief of the Military Staff.	The Chief of the Military Staff will exercise this power only when he is satisfied as to the <i>bona fides</i> of the application and when the application discloses the existence of compassionate grounds.
	(xviii) His service being no longer required.	" "	
	(xix) On compassionate grounds before fulfilling the conditions of his enrolment.	Brigade Commander.	The Brigade Commander will exercise this power only when he is satisfied as to the <i>bona fides</i> of the application and when the application discloses the existence of compassionate grounds.
	(xx) All other classes of discharge.	Commanding Officer.	Recruits who are considered unlikely to become efficient soldiers will be dealt with under this item.

CHAPTER IV.

INVESTIGATION OF CHARGES AND TRIAL BY COURT-MARTIAL.

SECTION I—INVESTIGATION OF CHARGES AND REMAND FOR TRIAL.

Power of Commanding Officer.

14. Every commanding officer shall take care that a person under his command, when charged with an offence, is not detained in custody for more than forty eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him impracticable with due regard to the public

Duty of commanding officer as to investigation of charge for offence.

CHAPTER IV—*Investigation of charges and trial by Court-martial* —(continued).

service. Every case of a person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the commanding officer to the officer to whom application would be made to convene a general or district court-martial for the trial of the person charged :

Provided that, Sunday shall be excluded in reckoning the periods of forty-eight hours specified in this rule.

Disposal of
the charge or
adjournment
for taking
down the
summary of
evidence.

15. (a) Every charge against a person subject to the regulation shall be heard in the presence of the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witnesses and make any statement in his defence.

(b) The commanding officer shall dismiss a charge brought before him if, in his opinion, the evidence does not show that some offence under the Regulation has been committed, and may do so if, in his discretion, he thinks the charge ought not to be proceeded with.

(c) At the conclusion of the hearing of a charge if the commanding officer is of opinion that the charge ought to be proceeded with, he shall, without unnecessary delay, either—

- (1) dispose of the case summarily ; or
- (2) refer the case to the proper superior authority ; or
- (3) adjourn the case for the purpose of having the evidence reduced to writing ; or
- (4) if the accused is under the rank of warrant officer, order his trial by summary Court-martial.

Provided that the commanding officer shall not order trial by summary court-martial without reference to the officer empowered to convene a district court-martial or on active service a summary general court-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

martial for the trial of the alleged offender unless either :—

(i) the offence is one which he can try by summary court-martial without reference to that officer ; or

(ii) he considers that there is grave reason for immediate action and such reference cannot be made without detriment to discipline.

(d) Where the case is adjourned for the purpose of having the evidence reduced to writing, at the adjourned hearing the evidence of the witnesses who were present and give evidence before the commanding officer, whether against or for the accused, shall be taken down in writing in the presence and hearing of the accused before the commanding officer or such officer as he directs.

(e) The accused may put questions in cross-examination to any witness, and the question with the answers shall be added in writing to the evidence taken down.

(f) The evidence of each witness when taken down, as provided in (d) and (e), shall be read over to him, and shall be signed by him, or if he cannot write his name, shall be attested by his mark and witnessed. Any statement of the accused material to his defence shall be added in writing and read over to him.

(g) The evidence of the witnesses and the statement (if any) of the accused shall be recorded in English or Urdu. If the witness or accused, as the case may be, does not understand English or Urdu the evidence or statement, as recorded, shall be interpreted to him in a language which he understands.

16. (a) The evidence and statement (if any) taken down in writing in pursuance of Rule 15 (in these rules referred to as the summary of evidence) shall be considered ^{Remand of accused.}

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

ed by the commanding officer, who thereupon shall either :—

- (1) remand the accused for trial by court-martial;
or
- (2) refer the case to the proper superior military authority ; or
- (3) if he thinks it desirable, rehear the case and dispose of it summarily.

(b) If the accused is remanded for trial by court-martial, the commanding officer shall without unnecessary delay either assemble a summary court-martial (after referring to the officer empowered to convene a district court-martial or on active service a summary general court-martial when such reference is necessary) or apply to the proper military authority to convene a court-martial, as the case requires.

(c) The summary of evidence, or a true copy thereof, shall be laid before the court-martial before which the accused is tried on the assembly of the court.

Summary
award of
punishment
by command-
ing officer.

17. When the commanding officer has once awarded punishment for an offence, he cannot afterwards increase the punishment for that offence.

Framing charges.

Charge-
sheet and
charge.

18. (a) A charge sheet shall contain the whole issue or issues to be tried by a court-martial at one time.

(b) A charge means an accusation contained in a charge-sheet, that a person amenable to military law has been guilty of an offence.

(c) A charge-sheet may contain one charge or several charges.

Commence-
ment of
charge-sheet.

19. Every charge-sheet shall begin with the name and description of the person charged, and state in the

CHAPTER IV.—*Investigation of charges and trial by Court-martial*—(continued).

case of an officer, his rank, name, and corps, or department (if any), and in the case of a warrant officer, non-commissioned officer, soldier or other enrolled person, his number, rank, name, and corps or department (if any). When the accused person does not belong to the regular forces the charge-sheet shall show by the description of him, or directly by an express averment, that he is amenable to the military law in respect of the offence charged.

20. (a) Each charge shall state one offence only, and in no case shall an offence be described in the alternative in the same charge. Contents of charge.

(b) Each charge shall be divided into two parts :—

(1) The statement of the offence; and

(2) the statement of the particulars of the act, neglect, or omission constituting the offence.

(c) The offence shall be stated, if not a civil offence, in the words of the Regulation, and if a civil offence, in such words as sufficiently describe that offence, but not necessarily in technical words.

(d) The particulars shall state such circumstances respecting the alleged offence as will enable the accused to know what act, neglect, or omission is intended to be proved against him as constituting the offence.

(e) The particulars in one charge may be framed wholly or partly by a reference to the particulars in another charge and in that case so much of the latter particulars as is so referred to shall be deemed to form part of the first mentioned charge as well as of the other charge.

(f) Where it is intended to prove any facts in respect of which any deduction from pay and allowances can be awarded as a consequence of the offence charged, the particulars shall state those facts, and the sum of the loss or damage it is intended to charge.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Validity
of charge
sheet.

21. (a) A charge-sheet shall not be invalid by reason only of any mistake in the name or description of the person charged, if he does not object to the charge-sheet during the trial, and it is not shown that injustice has been done to the person charged.

(b) In the construction of a charge-sheet or charge there shall be presumed in favour of supporting the same every proposition which may reasonably be presumed to be impliedly included though not expressed therein.

Preparation for defence by accused person.

Opportunity
of accused
to prepare
defence.

22. An accused person for whose trial a court-martial has been ordered to assemble shall be afforded proper opportunity of preparing his defence, and shall be allowed free communication with his witnesses, and with any friend or legal adviser whom he may wish to consult.

Warning of
accused for
trial.

23. (a) The accused before he is arraigned shall be informed by an officer of every charge on which he is to be tried; and also that, on his giving the names of witnesses whom he desires to call in his defence, reasonable steps will be taken for procuring their attendance, and those steps shall be taken accordingly.

The interval between his being so informed of the charges against him and his arraignment must be such as to allow him to have his witnesses present, and to consider his defence.

(b) The officer at the time of so informing the accused shall give him a copy of the charge-sheet and a vernacular translation of the same if it is in English and shall, if necessary, read and explain to him the charges brought against him.

(c) If he desires it, a list of the names, rank and corps (if any) of the officers who are to form the court, and where officers in waiting are named, also of these officers, will, in courts-martial other than summary courts-martial, be given to the accused.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(d) If it appears to the court that the accused is liable to be prejudiced at his trial by any non-compliance with this rule, the court shall take steps, and if necessary, adjourn to avoid the accused being so prejudiced.

24. Any number of accused persons may be tried together for an offence charged to have been committed by them collectively, but in such case notice of the intention to try the accused persons together shall be given to each of the accused at the time of his being informed of the charge, and any accused person may claim, either by notice to the authority convening the court, or, when arraigned before the court, by notice to the court to be tried separately, on the ground that the evidence of one or more of the other accused persons proposed to be tried together with him will be material to his defence: the convening authority or court, if satisfied that the evidence will be material, and if the nature of the charge admits of it, shall allow the claim, and such accused person shall be tried separately.

Joint trial of several accused persons.

Exception from rules.

25. Where it appears to the officer convening a court martial, or to the senior officer on the spot, that military exigencies, or the necessities of discipline, render it impossible or inexpedient to observe any of the Rules 15 (D), (E), (F), (G), 16, 22 and 23, he may, by order under his hand, make a declaration to that effect, specifying the nature of such exigencies or necessities, and thereupon the trial or other proceedings shall be as valid as if the rule mentioned in such declaration had not been contained herein; and the declaration may be made with respect to any or all of the rules above in this rule mentioned in the case of the same court-martial.

Suspension of rules on the ground of military exigencies or necessities of discipline.

Provided that the accused shall have full opportunity of making his defence, and shall be afforded every facility for preparing it which is practicable, having due regard to the said exigencies or necessities.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Alternative procedure.

Alternative
procedure.

23. When an accused person is remanded for trial by general or district court martial the procedure before and during trial shall be that ordered in section 2 of this Chapter, and when an accused person is remanded for trial by summary court martial that ordered in section 3 of this Chapter. Section 4 is equally applicable to all trials by general, district and summary courts-martial.

SECTION 2.—GENERAL AND DISTRICT COURT-MARTIAL.

Convening the court.

Convening
of general
and district
court-martial

27. (a) An officer before convening a general or district court martial shall first satisfy himself that the charges to be tried by the court are for offences within the meaning of the Regulation, and that the evidence justifies a trial on those charges, and if not so satisfied, shall order the release of the accused, or refer the case to superior authority.

(b) He shall also satisfy himself that the case is a proper one to be tried by the description of court-martial he proposes to convene.

(c) The officer convening a court martial shall appoint or detail the officers to form the court, and may also appoint or detail such waiting officers as he thinks expedient. He may also, where he considers the services of an interpreter to be necessary, appoint or detail an interpreter to the court.

(d) The officer convening a court-martial shall send to the senior member of a court composed of State officers and to the Judge advocate or superintending officer of any other court, the original charge-sheet on which the accused is to be tried, the summary of evidence, and the order for the assembly of the court-martial.

Adjourn-
ment for in-
sufficient
number of
officers.

28. (a) If, before the accused is arraigned, the full number of officers detailed are not available to serve, by reason of non-eligibility, disqualification, challenge or otherwise, and if there are not a sufficient number of

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

officers in waiting to take the place of those unable to serve the court shall ordinarily adjourn for the purpose of fresh members being appointed; but if the court are of opinion that in the interests of justice, and for the good of the service, it is inexpedient so to adjourn, they may, if not reduced in number below the legal minimum, proceed, recording their reasons for so doing.

(b) If the court adjourns for the purpose of the appointment of fresh members, whether under these rules or otherwise, the convening officer may, if he thinks fit, convene another court.

29. (a) An officer is not eligible for serving on a court-martial if he is not subject to military law.

Ineligibility and disqualification of officers for court-martial.

(b) An officer is disqualified for serving on a general or district court-martial if he

(i) is the officer who convened the court; or

(ii) is the prosecutor or a witness for the prosecution; or

(iii) investigated the charges before trial, or took down the summary of evidence, or was a member of a court of inquiry respecting the matters on which the charges against the accused are founded, or was the squadron, battery, company, or other commander, who made preliminary inquiry into the case; or

(iv) is the commanding officer of the accused or of the corps to which the accused belongs; or

(v) has a personal interest in the case.

30. A general court-martial shall be composed, as far as possible, of officers of different corps or departments, and in no case exclusively of officers of the corps or department to which the accused belongs.

Composition of court-martial.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Procedure at trial.—Constitution of Court.

Inquiry by
court as to
legal consti-
tution.

31. (a) On the court assembling, the order convening the court shall be read, and also the names, rank and corps of the officers appointed to serve on the court; and it shall be the first duty of the court to satisfy themselves that the court is legally constituted (that is to say) —

- (i) that, so far as the court can ascertain the court has been convened in accordance with the Regulation and these rules;
- (ii) that the court consists of a number of officers not less than the legal minimum, and, save as mentioned in rule 28, not less than the number detailed ;
- (iii) that each of the officers so assembled is eligible and not disqualified for serving on that court-martial ;
- (iv) that a superintending officer has, when necessary, been appointed.

(b) The court shall, further, if it is a general or district court-martial to which a Judge advocate has been appointed, ascertain that the Judge-advocate is duly appointed and is not disqualified for acting at that court-martial.

(c) The court, if not satisfied on the above matters, shall report their opinion to the convening authority, and may adjourn for that purpose.

Inquiry by
court as to
amenability
of accused
and validity
of charge.

32. (a) The court, when satisfied on the above matters, shall satisfy themselves in respect of each charge about to be brought before them—

- (i) that it appears to be laid against a person amenable to military law, and to the jurisdiction of the court, and
- (ii) that each charge discloses an offence under the Regulation and is framed in accordance

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

with these rules, and is so explicit as to enable the accused readily to understand what he has to answer.

(b) The court, if not satisfied on the above matters, shall report their opinion to the convening authority and may adjourn for that purpose.

Procedure at Trial.—Challenge and swearing.

33. When the court have satisfied themselves as to the above facts, the prosecutor, who must be a person subject to military law, shall take his place and the court shall cause the accused to be brought before the court.

Appearance
of prosecutor
and accused.

34. The names of the president and members of the court shall then be read over to the accused and he shall be asked, as required by section 80 of the Regulation, whether he objects to be tried by any officer sitting on the court. Any such objections shall be disposed of in accordance with the provisions of section 80 of the Regulation; provided that—

Proceedings
for challenges
of mem-
bers of court.

- (i) The accused shall state the names of all the officers to whom he objects before any objection is disposed of.
- (ii) The accused may call any person to give evidence in support of his objection.
- (iii) If more than one officer is objected to, the objection to each officer shall be disposed of separately, and the objection to the lowest in rank shall be disposed of first, and on an objection to an officer, all the other officers present shall vote on the disposal of such objection, notwithstanding that objections have been made to any of those officers.
- (iv) When an objection to an officer is allowed that officer shall forthwith retire, and take no further part in the proceedings.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(v) when an officer objected to retires, and there are any officers in waiting, the vacancy shall be forthwith filled by one of the officers in waiting being directed to serve in lieu of the retiring officer. If there is no officer in waiting available, the court shall proceed as directed by Rule 28.

(vi) The eligibility, absence of disqualification, and freedom from objection of an officer filling a vacancy shall be ascertained by the court, as in the case of other officers appointed to serve on the court.

Sweating
or affirming
of members.

35. As soon as the court is constituted with the proper number of officers who are not objected to, or the objections to whom have been over-ruled, an oath or affirmation shall be administered to every member in one of the following forms or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of oath.

"You do swear that you will duly administer justice, according to the Jammu and Kashmir Army Regulation without partiality, favour or affection; and if any doubt shall arise, then, according to your conscience, the best of your understanding, and the custom of war in the like cases; and that you will not divulge the sentence of this court-martial until it shall be published by authority; and, further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of Justice or a court-martial, in due course of law. So help you God".

The first person may, when necessary, be substituted for the second in this form of oath and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, accord-

CHAPTER IV—*Investigation of charges and trial by Court-martial* – (continued).

ing to the Jammu and Kashmir Army Regulation, without partiality, favour or affection, and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of this court-martial until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or court-martial, in due course of law”.

36. After the members of the court are all sworn or have made affirmation, an oath or affirmation shall be administered to the following persons or such of them as are present at the court-martial, in such of the following forms as shall be appropriate, or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed:—

Swearing
or affirming
of judge-
advocate
and other
officers.

(A) *Judge-advocate or superintending officer.*

Form of oath.

“You do swear that you will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular member of this-court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law and that you will not, unless it be necessary for the due discharge of your official duties, divulge the sentence of this court-martial until it shall be published by authority. So help you God”.

The first person may, when necessary, be substituted for the second in this form of oath, and in all other forms prescribed in this rule, and the words “So help you God” omitted or varied.

Form of affirmation.

“I solemnly affirm in the presence of Almighty God that I will not, upon any account whatsoever, dis-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

close or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice, or a court-martial, in due course of law; and that I will not, unless it be necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it shall be published by authority”.

(B) *Officer attending for the purpose of instruction.*

Form of oath.

“You do swear that you will not divulge the sentence of this court-martial until it shall be published by authority, and, further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law. So help you God”.

Form of affirmation.

“I solemnly affirm in the presence of Almighty God that I will not divulge the sentence of this Court-martial until it shall be published by authority, and, further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law”.

(C) *Short-handwriter or writer.*

Form of oath.

“You do swear that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as you may be required, and will, when required, deliver to the court a true transcript of the same. So help you God.”

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial, and such other matters as I may be required, and will, when required, deliver to the court a true transcript of the same".

(D). *Interpreter.*

Form of Oath.

"You do swear that you will faithfully interpret and translate, as you shall be required to do, touching the matter before the court-martial; and that you will not divulge the sentence until it shall be published by authority; and further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law. So help you God".

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial; and that I will not divulge the sentence until it shall be published by authority; and further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law".

37. All oaths and affirmations shall be administered by a member of the court, the judge-advocate, the superintending officer or some other person empowered by the court to administer such oath or affirmation. Persons to administer oaths and affirmation.

Prosecution Defence and Summoning up.

38. (a) After the members of the court and other persons are sworn or affirmed as above-mentioned, the Arraignment of accused.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

accused shall be arraigned on the charges against him.

(b) The charges upon which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.

Objection
by accused
to charge.

39. The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Regulation or is not in accordance with these rules.

Amend-
ment of
charge.

40. (a) At any time during the trial, if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, the court may amend the charge-sheet so as to correct that mistake.

(b) If on the trial of any charge it appears to the court at any time before they have begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration in, the charge is required, they may report their opinion to the convening authority, and may adjourn, and the convening authority may either direct a new trial to be commenced, or amend the charge, and order the trial to proceed with such amended charge after due notice to the accused.

Special
plea to the
jurisdiction.

41. (a) The accused, before pleading to a charge, may offer a special plea to the general jurisdiction of the court; and if he does so, and the court consider that anything stated in such plea shows that the court have not jurisdiction, they shall receive any evidence offered in support, together with any evidence offered by the prosecutor in disproof or qualification thereof, and any address by the accused and reply by the prosecutor in reference thereto.

(b) If the court overrule the special plea, they shall proceed with the trial.

(c) If the court allow the special plea, they shall record their decision and the reasons for it, and report it

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

to the convening authority and adjourn; such decision shall not require any confirmation, and the convening authority shall either forthwith convene another court for the trial of the accused, or order the accused to be released.

(d) If the court are in doubt as to the validity of the plea, they may refer the matter to the convening authority, and may adjourn for that purpose, or may record a special decision with respect to such plea, and proceed with the trial.

42. (a) If no special plea to the general jurisdiction of the court is offered, or if such plea being offered, is over-ruled, the accused person's plea "Guilty" or "Not guilty" (or if he refuses to plead, or does not plead intelligibly either one or the other, a plea of "Not guilty") shall be recorded on each charge. General
plea
"Guilty" or
"Not guilty".

(b) If an accused person pleads "Guilty" that plea shall be recorded as the finding of the court; but, before it is recorded, the officer conducting the proceedings, on behalf of the court, shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty, and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence that the accused ought to plead not guilty.

43. (a) The accused, at the time of his general plea of "Guilty" or "Not guilty" to a charge for an offence, may offer a plea in bar of trial on the ground that— Plea in bar.

(1) he has been previously convicted or acquitted of the offence by a competent criminal court or by a court-martial or has been dealt with summarily under section 20 or 22 of the Regulation for the offence; or

(2) the offence has been pardoned or condoned by competent military authority; or

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(3) the time which has elapsed between the commission of the offence and the beginning of the trial is more than three years, and the limit of time for trial is not extended under section 67 of the Regulation.

(b) If he offers such plea in bar, the court shall record it as well as his general plea, and if they consider that any fact or facts stated by him are sufficient to support the plea in bar they shall receive any evidence offered, and hear any address made by the accused and the prosecutor in reference to the plea.

(c) If the court find that the plea in bar is proved they shall record their finding, and notify it to the confirming authority, and shall either adjourn, or if there is any other charge against the accused, whether in the same or in a different charge-sheet, which is not affected by the plea in bar, may proceed to the trial of the accused on that charge.

(d) If the finding that the plea in bar is proved is not confirmed, the court may be re-assembled by the confirming authority, and proceed as if the plea had been found not proved.

(e) If the court find that the plea in bar is not proved, they shall proceed with the trial and the said finding shall be subject to confirmation like any other finding of the court.

Procedure
after plea of
"Guilty".

44. (a) Upon the record of the plea of "Guilty" if there are other charges in the same charge-sheet to which the plea is "Not guilty" the trial shall first proceed with respect to those other charges, and, after the finding on those charges, shall proceed with the charges on which a plea of "Guilty" has been entered; but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded "Guilty" to any charge, or may, instead of trying him, record a finding of "Not guilty" on each alternative charge to which the prisoner has not pleaded "Guilty".

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(b) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the court shall receive any statement which the accused desires to make in reference to the charge, and shall read the summary of evidence, and annex it to the proceedings, or if there is no such summary, shall take and record sufficient evidence to enable them to determine the sentence, and the confirming officer to know all the circumstances connected with the offence. This evidence will be taken in like manner as is directed by these Rules in the case of a plea of "Not guilty".

(c) After evidence has been so taken, or the summary of evidence has been read, as the case may be, the accused may make a statement in mitigation of punishment, and may call witnesses as to his character.

(d) If from the statement of the accused or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty" the court shall alter the record and enter a plea of "Not guilty", and proceed with the trial accordingly.

(e) If a plea of "Guilty" is recorded, and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under (b) and (c) shall take place when the finding on the other charges in the same charge-sheet are recorded.

(f) When the accused at any court-martial states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

45. The accused may, if he thinks fit, at any time during the trial, withdraw his plea of "Not guilty" and plead "Guilty" and in such case the court will at once, ^{Withdrawal of} ^{plea of} "Not guilty". ^{guilt.} subject to a compliance with Rule 42 (b) record a plea and finding of "Guilty" and shall, so far as is necessary, proceed in manner directed by Rule 44.

CHAPTER IV – *Investigation of charges and trial by Court-martial*— (continued).

Plea "Not guilty" and case for the prosecution.

46. After the plea of "Not guilty" to any charge is recorded, the trial shall proceed as follows:—

(a) The prosecutor may, if he desires, make an opening address.

(b) The evidence for the prosecution shall then be taken.

(c) If it should be necessary for the prosecutor to give evidence for the prosecution on the facts of the case, he shall give it after the delivery of his address, and he must be sworn and give his evidence in detail.

(d) He may be cross-examined by the accused and afterwards may make any statement which might be made by a witness on re-examination.

Close of case for the prosecution and procedure for defence where accused does not call witnesses.

47. (1) At the close of the evidence for the prosecution the accused shall be asked if he intends to call any witnesses to the facts of the case.

(2) If the accused does not state that he intends to call witnesses to the facts of the case the procedure shall be as follows:—

(a) The prosecutor may address the court a second time for the purpose of summing up the evidence for the prosecution.

(b) The accused shall be asked if he has anything to say in his defence and may address the court in his defence.

(c) The accused may call witnesses as to his character.

(d) The prosecutor may produce, in reply to the witnesses as to character, proof of former convictions, and entries in the defaulter's

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

book, but he may not again address the court.

48. If the accused states that he intends to call witnesses to the facts of the case, the procedure shall be as follows:—

Defence where accused calls witnesses.

(a) The accused shall be asked if he has anything to say in his defence, and may address the court in his defence.

(b) The accused may call his witnesses including witnesses as to character.

(c) The prosecutor may, in special cases with the permission of the court, call witnesses in reply.

(d) After the evidence of all the witnesses for the defence has been taken, the accused may again address the court, and the time at which such second address is allowed is in these rules referred to as the time for the second address of the accused.

(e) The prosecutor shall be entitled to address the court in reply.

49. (a) The judge-advocate, if any, shall, unless both he and the court think a summing up unnecessary, sum-up in open court the whole case.

Summing-up by judge-advocate.

(b) After the judge-advocate has spoken, no other address shall be allowed.

Finding and Sentence.

50. (a) The court shall deliberate on their finding in closed court.

Consideration of finding.

(b) The opinion of each member of the court shall be taken separately on each charge.

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Form and
record of
finding.

51. (a) The finding on every charge shall be recorded, and except as mentioned in these rules shall be recorded simply as a finding of "Guilty" or of "Not guilty" or of "Not guilty and honourably acquit him of the same".

(b) Where the court are of opinion as regards any charge that the facts which they find to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, they may, instead of a finding of "Not guilty" record a special finding.

(c) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(d) Where the court are of opinion as regards any charge that the facts proved do not disclose an offence under the Regulation, the court shall acquit the accused of that charge.

(e) If the court doubt as regards any charge whether the facts proved show the accused to be guilty or not of an offence under the Regulation, they may, before recording a finding on that charge, refer to the confirming authority for an opinion, and, if necessary, adjourn for that purpose.

(f) Where there are alternative charges and the facts proved appear to the court not to constitute the offence mentioned in any of these alternative charges, the court shall record a finding of "Not guilty" on that charges; but if the court think that the facts so proved constitute one of the offences stated in two or more of the alternative charges, but doubt which of those offences the facts do at law constitute, then they may, either before recording a finding on those charges refer to the confirming authority for an opinion, and, if necessary adjourn for the purpose, or they may record a special finding, stating the facts which they find to be proved,

CHAPTER IV—*Investigation of charges and trial by Court-martial*--(continued).

and stating that they doubt whether those facts constitute in law the offence in such one or another of the alternative charges as are specified in the finding.

52. If the finding on all the charges is "Not guilty" ^{Procedure on acquittal.} the president shall date and sign the finding and such signature shall authenticate the whole of the proceedings, and the proceedings upon being signed by the judge-advocate or superintending officer, if any, shall be at once transmitted for confirmation.

53. (a) If the finding on any charge is "Guilty" ^{Procedure on conviction.} then, for the guidance for the court in determining their sentence, and of the confirming authority in considering the sentence, the court, before deliberating on their sentence, may take evidence of and record the general character, age, service rank, and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial or a criminal court, any previous punishments awarded to him by an officer exercising authority under section 20 of the Regulation, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled, and which the court can sentence him to forfeit.

(b) Evidence on the above matters may be given by a witness verifying a statement which contains a summary of the entries in the regimental books respecting the accused and identifying the accused as the person referred to in that summary.

(c) The accused may cross-examine any such witness, and may call witnesses to rebut such evidence and if the accused so requests, the regimental books, or a duly certified copy of the material entries therein, shall be produced; and if the accused alleges that the summary is in any respect not in accordance with the regimental books or such certified copy, as the case may be, the court shall compare the summary with those books or copy, and if they find it is not in accordance

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

therewith shall cause the summary to be corrected accordingly.

(d) When all the evidence on the above matters has been given the accused may address the court thereon.

Sentence.

54. The court shall award one sentence in respect of all the offences of which the accused is found guilty, and such sentence shall be deemed to be awarded in respect of the offence in each charge in respect of which it can be legally given, and not to be awarded in respect of any offence in a charge in respect of which it cannot be legally given.

Recommendation to mercy.

55. (a) If the court make a recommendation to mercy, they shall give their reasons for their recommendation.

(b) The number of opinions by which a recommendation to mercy mentioned in this rule, or any question relative thereto, is adopted or rejected may be entered in the proceedings.

Signing and transmission of proceedings.

56. Upon the court awarding the sentence, the president shall date and sign the sentence and such signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the judge-advocate or superintending officer, if any shall be at once transmitted for confirmation.

Confirmation and Revision.

Revision.

57. (a) Where the finding or sentence is sent back for revision under section 100 of the Regulation the court shall re-assemble in closed court, but if the court is directed to take fresh evidence on revision such evidence must be taken in open court and in the presence of the accused.

(b) Where the finding is sent back for revision and the court do not adhere to their former finding, they shall revoke the finding and sentence, and record a new

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finding, and if such new finding involves a sentence, pass sentence afresh.

(c) Where the sentence alone is sent back for revision, the court shall not revise the finding.

(d) After revision, the president shall date and sign the decision of the court, and the proceedings upon being signed by the judge-advocate or superintending officer, if any, shall be at once transmitted for confirmation.

58. The charge, finding, sentence and confirmation of a court-martial shall be promulgated in such manner as the confirming authority may direct; and if no direction is given, according to the custom of the service. Promulga-
tion.

59. (a) Where a sentence has been awarded by a court-martial in respect of offences in several charges, and the confirming authority confirms the finding on some but not on all of such charges, that authority shall take into consideration the fact of such non-confirmation, and shall, if it seems just, mitigate, remit, or commute the punishment awarded according as seems just, having regard to the offences in the charges the findings on which are confirmed. Mitigation
of sentence
on a partial
confirma-
tion.

(b) Where a sentence has been awarded by a court-martial in respect of offences in several charges and has been confirmed, and any one of such charges or the finding thereon is found to be invalid, the authority having power to mitigate, remit, or commute the punishment awarded by the sentence shall take into consideration the fact of such invalidity, and if it seems just, mitigate, remit, or commute the punishment awarded according as seems just, having regard to the offences in the charges which with the findings thereon are not invalid, and the punishment as so modified shall be as valid as if it had been originally awarded only in respect of those offences.

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Confir-
mation of fin-
ding on alter-
native charge

60. (a) Where a special finding has been recorded in relation to alternative charges under Rule 51 (F), and the confirming authority is of opinion that the facts found by the special finding constitute in law the offence charged by any of the alternative charges, that authority may confirm the finding, and in that case shall declare that the finding amounts to a finding of guilty on that charge; but it is afterwards declared by any authority having power to remit or commute the punishment awarded that the said facts constitute in law the offence charged in one of the other alternative charges, then the confirming authority, or such other authority as aforesaid, may declare that the finding amounts to a finding of guilty on that alternative charge; and the finding shall be a valid finding of guilty on the charge specified in that behalf in the declaration made on confirmation, or, in case of a subsequent declaration, in that subsequent declaration.

(b) The sentence awarded in the case of any such special finding may likewise be confirmed, subject to this proviso, that if the offence in one of the alternative charges involves a higher punishment, or is otherwise graver, than the offence in the charge of which the accused is found to be guilty under the terms of any declaration mentioned in (a), the authority making the declaration, or some other authority having power to mitigate, remit, or commute the punishment awarded, shall mitigate, remit or commute the punishment according as seems just having regard to the last-mentioned offence; and the punishment as so modified shall be as valid as if it had been originally awarded in respect of the last-mentioned offence.

Confir-
mation not-
withstanding
informality
in, or excess
of, punish-
ment.

61. (a) If the sentence of a court-martial is informally expressed, the confirming authority may in confirming the sentence, vary the form so that it shall be properly expressed; and if the punishment awarded by the sentence is in excess of the punishment authorized by law, the confirming authority may vary the sentence so that the punishment shall not be in excess of the punishment authorized by law; and the confirming authority

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may confirm the finding and the sentence, as so varied, of the court-martial.

62. A member of a court-martial, or an officer who has acted as prosecutor at a court-martial, shall not confirm the finding or sentence of that court-martial and where such member or prosecutor becomes confirming officer, he shall refer the finding and sentence of the court-martial to a superior authority competent to confirm the findings and sentences of the like description of court-martial.

Member or prosecutor not to confirm the proceedings.

Proceedings of General and District Court-Martial

63. The members of a court-martial shall take their seats according to their army rank.

Seating of members.

64. (a) In the case of a court-martial composed of State officers, or partly of State officers, and partly of Indian Officers the president shall conduct the proceedings.

Conduct of proceedings.

(b) In the case of a court-martial composed of Indian Officers, the judge-advocate, if there is one, shall conduct the proceedings. If there is no judge-advocate, the superintending officer shall conduct them.

65. (a) The officer conducting the proceedings is responsible for the trial being conducted in proper order, and in accordance with the Regulation, and will take care that everything is conducted in a manner befitting a court of justice.

Responsibility of officer conducting the proceedings.

(b) It is the duty of the officer conducting the proceedings to see that justice is administered, that the accused has a fair trial, and that he does not suffer any disadvantage in consequence of his position as a person under trial, or of his ignorance or of his incapacity to examine or cross-examine witnesses, or otherwise.

66. (a) It is the duty of the prosecutor to assist the court in the administration of justice, to behave impartially, to bring the whole of the transaction before the court, and not to take any unfair advantage of, or suppress any evidence in favour of the accused.

Power of court over address of prosecutor and accused.

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(b) The court may stop the prosecutor in referring to any matter not relevant to the charge then before the court, or any matter which the court is not investigating, and it is duty of the court to restrain any undue violence of language or want of fairness or moderation on the part of the prosecutor.

(c) The court shall allow great latitude to the accused in making his defence; he must abstain from any remarks contemptuous or disrespectful towards the court, and from coarse and insulting language towards others, but he may for the purposes of his defence impeach the evidence and the motives of the witnesses and prosecutor, and charge other persons with blame and even criminality, subject, if he does so, to any liability to further proceedings to which he would otherwise be subject. The court may caution the accused as to the irrelevance of his defence, but shall not, unless in special cases, stop his defence solely on ground of such irrelevance.

Procedure
on trial of
accused
persons
together.

67. Where two or more accused persons are tried together and any evidence is tendered by any one or more of them, the evidence and addresses on the part of all the accused persons shall be taken before the prosecutor replies, and the prosecutor shall make one address only in reply as regards all the accused persons.

Separate
charge-
sheets.

68. (a) When the convening officer directs any charges against an accused person to be inserted in different charge-sheets, the accused shall be arraigned and until after the finding tried, upon each charge-sheet, separately, and accordingly the procedure in Rules 38 to 51, both inclusive, shall, until after the finding, be followed in respect of each charge-sheet, as if it contained the whole of the charges against the accused.

(b) The trials upon the several charge-sheets shall be in such order as the convening officer directs.

(c) When the court have tried the accused upon all the charge-sheets they shall, in the case of the finding being "Not guilty" on all the charges proceed as direct-

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ed by Rule 52, and in case of the finding on any one or more of the charges being "Guilty" proceed as directed by Rules 44 and 53 to 56, both inclusive, in like manner in each case as if all the charges in the different charge-sheets had been contained in one charge-sheet, and the sentence passed shall be of the same effect as if all the charges had been contained in one charge-sheet.

(d) If the convening officer directs that, in the event of the conviction of an accused person upon a charge in any charge-sheet, he need not be tried upon the subsequent charge-sheets, the court in such event may, without trying the accused upon any of the subsequent charge-sheets, proceed as before directed by (C).

(e) Where a charge-sheet contains more than one charge, the accused may, before pleading claim to be tried separately in respect of any charge or charges in that charge-sheet, on the ground that he will be embarrassed in his defence, if he is not so tried separately; and in such case the court, unless they think his claim unreasonable, shall arraign and try the accused in like manner as if the convening officer had inserted the said charge or charges in different charge-sheets.

(f) If the accused pleads "Guilty" to a charge in a charge-sheet, and the trial does not proceed as mentioned in Rule 44 (A), with respect to the other charges in that charge-sheet, the court shall, subject to the directions of the convening officer, proceed to try the accused on the charges in the next charge-sheet before they proceed as directed by Rule 44 (B) and (C).

69. (a) When a court-martial sits in closed court on any deliberation amongst the members or otherwise, no person shall be present except the members of the court, the Judge-advocate, or superintending officer, any officers under instruction, and, if an interpreter has been appointed and the court consider his presence necessary, the interpreter; and the court may either retire, or may cause the place where they sit to be cleared of all other persons not entitled to be present. Sitting in closed court

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(b) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court and in the presence of the accused.

Continuity
of trial and
adjournment
of court.

70. (a) When a court is once assembled and the accused has been arraigned the court shall continue the trial from day to day and sit for a reasonable period on every day unless it appears to the court that adjournment is necessary for the ends of justice or that such continuance is impracticable.

(b) A court may adjourn from time to time, and from place to place, and may, when necessary, view any place.

(c) A court-martial, in the absence either of a judge-advocate or superintending officer (if such has been appointed for that court-martial), shall not proceed, and, if necessary, shall adjourn.

(d) The senior officer on the spot may also, for military exigencies, adjourn or prolong the adjournment of the court.

(e) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the proper military authority; and, if the place to which an adjournment is made is not specified, the adjournment shall be to the same place or to such place as may be specified in further orders from the proper military authority.

Proceed-
ings on
death or
illness of
accused.

71. In case of the death of the accused, or of such illness of the accused as renders it impossible to continue the trial, the court shall ascertain the fact of the death or illness by evidence, and record the same, and adjourn, and transmit the proceedings to the convening authority.

Death, re-
tirement or
absence of
President.

72. (a) In the case of the death, retirement on challenge or unavoidable absence of the president, the next senior officer shall take the place of the president and the trial shall proceed if the court is still composed

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of not less than the smallest number of officers of which it is required by law to consist.

(b) A member of a court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial by that court of that person, but the court will not be affected unless it is reduced below the legal minimum.

(c) An officer shall not be added to a court-martial after the accused has been arraigned.

73. (a) Every member of a court must give his opinion on every question which the court has to decide, and must give his opinion as to the sentence, notwithstanding that he has given his opinion in favour of acquittal. Taking of opinion of member is of court.

(b) The opinions of the members of the court shall be taken in succession, beginning with the junior in rank.

74. If any question should arise incidentally, during the trial, the person, whether prosecutor or accused, requesting the opinion of the court, is to speak first; the other person is then to answer, and the first person is to be allowed to reply. Procedure on incidental question.

75. (a) A court may be sworn or affirmed at the time to try any number of accused persons then present before it, whether those persons are to be tried together or separately, and each accused person shall have power to object to the members of the court, and shall be asked separately whether he objects to any member. Swearing of court to try several accused persons.

(b) In the case of several accused persons to be tried separately, the court, upon one of those persons objecting to a member, may, according as they think fit, proceed to determine, that objection or postpone the case of that person and swear or affirm the members of the court for the trial of the others alone.

(c) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall

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proceed with one case, postponing the other cases, and taking them after-wards in succession.

Swearing
of interpre-
ter short-
hand writer,
and writer.

76. (a) At any time during the trial an impartial person may, if the court think it necessary, and shall, if either the prosecutor or the accused request it on any reasonable ground, be sworn or affirmed to act as interpreter.

(b) An impartial person may at any time of the trial, if the court think it desirable, be sworn or affirmed to act as a writer or shorthand writer.

(c) Before a person is sworn or affirmed as interpreter writer or shorthand writer, the accused shall be informed of the person who is proposed to be sworn, or affirmed and may object to the person as not being impartial ; and the court, if they think that the objection is reasonable shall not swear or affirm that person as interpreter writer or shorthand writer.

Evidence,
when to be
translated.

77. When any evidence is given in a language which any of the officers composing the court, the judge-advocate, the superintending officer, the prosecutor or the accused does not understand, that evidence shall be interpreted to such officer or person in a language which he does understand. If an interpreter in such language has been appointed by the convening officer, and duly sworn or affirmed, the evidence shall be interpreted by him. If no such interpreter has been appointed and sworn or affirmed, an impartial person shall be sworn or affirmed by the court as required by Rule 76. When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

Record in
proceedings
of transac-
tions of
court-
martial.

78. (a) At a court-martial the judge-advocate, or, if there is none, the president or superintending officer shall record, or cause to be recorded in English or Urdu, all transactions of that court, and shall be responsible for the accuracy of the record (in these rules referred to as the proceedings) and if the judge-advocate is called as a witness by the accused, the president (if the court is

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composed of State Officers or partly of state and partly of Indian Officers) shall be responsible for the accuracy of the record in the proceedings of the evidence of the judge-advocate.

(b) If the court is composed of Indian officers and the judge-advocate or superintending officer is called as a witness by the accused, the interpreter shall be responsible for the accuracy of the record in the proceedings of the evidence of the judge-advocate or superintending officer. If no interpreter has previously been appointed, or if the interpreter is unable to record the proceedings in English or Urdu, an interpreter shall be appointed for this purpose by the court.

(c) The evidence shall be taken down in a narrative form in as nearly as possible the words used; but in any case where the prosecutor, the accused person, the judge-advocate, or the court considers it material, the question and answer shall be taken down *verbatim*.

(d) Any question which has been objected to, and the tender of any evidence which has been objected to, shall, if the prosecutor or accused so requests, or the court think fit, be entered with the grounds of the objection, and decision of the court thereon.

(e) Where any address by, or on behalf of, the prosecutor or person under accusation, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the court think proper, except that —

(1) the court shall in every case make such record of the defence made by the accused as will enable the confirming officer to judge of the reply made by, or on behalf of, the accused to each charge against him; and

(2) the court shall also record any particular matters in the address by, or on behalf of, the prosecutor or accused person, which the prosecutor or accused person, as the case may be, requires.

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(f) The court shall not enter in the proceedings any comment or anything not before the court, or any report of any fact not forming part of the trial; but if any such comment or report seems to the court necessary, the court may forward it to the proper military authority in a separate document, signed by the president.

Custody
and inspection of
proceedings.

79. The proceeding shall be deemed to be in the custody of the judge-advocate (if any), or, if there is none, of the president or superintending officer, but may, with proper precautions for their safety, be inspected by the members of the court, the prosecutor and accused, respectively, at all reasonable times before the court is closed to consider the finding.

Transmission of
proceedings
after finding.

80. The proceedings shall be at once sent by the person having the custody thereof to such person as may be directed by the order convening the court, or, in default of any such direction, to the confirming officer.

Friend of accused and counsel.

Accused
may have a
person to
assist him
on trial.

81. (a) At any general or district court-martial an accused person may have a person to assist him during the trial, whether a legal adviser or any other person.

(b) A person so assisting him may advise him on all points, and suggest the questions to be put to witnesses; and, if an officer subject to military law, shall have the same rights and duties as counsel have under these rules, and the right of the accused shall be limited in like manner.

Counsel
allowed in
certain
general and
district
courts-
martial.

82. (a) Subject to these rules, counsel shall be allowed to appear on behalf of the prosecutor and accused at general and district courts-martial if the Commander-in-Chief or the convening officer declares that it is expedient to allow the appearance of counsel thereat, and such declaration may be made as regards all general and district courts-martial held in any particular place, or as regards any particular general or district court-martial, and may be made subject to such reservation as to cases on active service, or otherwise, as seems expedient.

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(b) Save as provided in Rule 81, the rules with respect to counsel shall apply only to the courts-martial at which counsel are under this rule, allowed to appear.

83. (a) Where an accused person gives notice of his intention to have counsel to assist him during the trial, either on the day on which he is informed of the charge or at any time not being less than seven days before the trial, or such shorter time before the trial as in the opinion of the court would have enabled the prosecutor to obtain, if he had thought fit, counsel to assist him during the trial, and would have enabled the authority appointing a judge-advocate to appoint counsel to act as judge-advocate at the trial, or where such notice as mentioned in (b) is given to the accused on the part of the prosecution, counsel may appear at the court-martial to assist the accused.

Require-
ments for
appearance
of a counsel.

(b) If the convening officer so directs counsel may appear on behalf of the prosecutor, but in that case, unless the notice in (a) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time (not in any case less than seven days) before the trial, as would, in the opinion of the court, have enabled the accused to obtain counsel to assist him at the trial.

(c) The counsel, who appears before a court-martial on behalf of the prosecutor or accused, shall have the same right as the prosecutor or accused for whom he appears, to call, and orally examine, cross-examine, and re-examine witnesses, to make an objection or statement, to address the court, to put in any plea, and to inspect the proceedings, and shall have the right otherwise to act in the course of the trial in the place of the person on whose behalf he appears, and he shall comply with these rules as if he were that person; and in such case that person shall not have the right himself to do any of the above matters except as regards the statement allowed by Rule 88 or except so far as the court permit him so to do.

(d) When counsel appears on behalf of the prosecutor, the prosecutor, if called as a witness may be

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examined and re-examined as any other witness and Rule 46 (c) and (d) shall not apply.

Counsel for
prosecution.

84. The counsel appearing on behalf of the prosecutor shall have the same duty as the prosecutor, and is subject to be stopped and restrained by the court in the manner provided by Rule 66 (b).

Counsel for
accused.

85. The counsel appearing on behalf of the accused has the like rights, and is under the like obligations as are specified in Rule 66 (c) in the case of the accused.

General
rules as to
counsel.

86. Counsel, whether for the prosecution or for the accused, shall conform strictly to these rules and to the rules of criminal courts in the State relating to the examination, cross-examination, and re-examination of witnesses and relating to the duties of counsel.

Qualifi-
cations of
counsel.

87. (a) Neither the prosecutor nor the accused has any right to object to any counsel if properly qualified.

(b) Counsel shall be deemed properly qualified if he is a legal practitioner authorized to practise with right of audience in a Court of Sessions in the State, or if, in any part of His Majesty's dominions, he is recognised by the convening officer as having in that part rights and duties similar to those of such legal practitioner in the State and as being subject to punishment or disability for a breach of professional rules.

Statement
by accused
defended by
counsel or
officer.

88. (a) An accused person assisted by counsel, or by an officer subject to military law, may, if he thinks fit, at the close of the case for the prosecution and before the address by such counsel, or officer, make a statement giving his own account of the subject of the charges against him.

The statement may be made either orally or in writing, but the accused making the statement shall not be sworn, and no question can be put to him by the court or by any other person.

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(b) If the accused make such a statement the procedure shall, so far as possible, be the same as if the accused had called witnesses to the facts of the case.

Judge-Advocate.

89. An officer who is disqualified for sitting on a court-martial, and any other person who would have been so disqualified, had he been an officer, shall be disqualified for acting as judge-advocate at that court-martial. Disqualifi-
cation
of Judge
advocate.

90. If the judge-advocate dies, or from illness or from any cause whatever is unable to attend, the court shall adjourn, and the president shall report the circumstances to the convening authority; and a person not disqualified to be judge-advocate may be appointed by that authority, who shall be sworn, or affirmed, and act as judge-advocate for the residue of the trial, or until the judge-advocate returns. Substitute
on death,
illness or
absence of
judge-
advocate.

91. The powers and duties of a judge-advocate are as follows:— Powers and
duties of
judge-
advocate.

(a) The prosecutor and the accused, respectively, are at all times, after the judge-advocate is named to act on the court, entitled to his opinion on any question of law relative to the charge or trial, whether he is in or out of court, subject, when he is in court, to the permission of the court.

(b) At a court-martial he represents the judge-advocate-general.

(c) He is responsible for informing the court of any informality or irregularity in the proceedings. whether consulted or not, he shall inform the convening officer and the court of any informality or defect in the charge, or in the constitution of the court, and shall give his advice on any matter before the court.

(d) Any information or advice given to the court on any matter before the court shall, if he or the court desire it, be entered in the proceeding.

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(e) At the conclusion of the case he shall, unless both he and the court consider it unnecessary, sum up the evidence and give his opinion upon the legal bearing of the case before the court proceed to deliberate upon their finding.

(f) The court, in following the opinion of the judge-advocate on a legal point, may record that they have decided in consequence of that opinion.

(g) The judge-advocate has, equally with the officer conducting the proceedings, the duty of taking care that the accused does not suffer any disadvantage in consequence of his position as such, or of his ignorance or incapacity to examine or cross-examine witnesses or otherwise, and may, for that purpose, with the permission of the court, call witnesses and put questions to witnesses, which appear to him necessary or desirable to elicit the truth.

(h) In fulfilling his duties the judge-advocate must be careful to maintain an entirely impartial position.

SECTION 3.—SUMMARY COURTS-MARTIAL.

Proceed-
ings.

92. The officer holding the trial, hereinafter called the court, shall record, or cause to be recorded, in English or Urdu, the transactions of every summary court-martial.

Evidence
when to be
translated.

93. When any evidence is given in a language which the court or the accused does not understand that evidence shall be interpreted to the court or accused as the case may be in a language which it or he does understand. The court shall, for this purpose, either appoint an interpreter, or shall itself take the oath or affirmation prescribed for an interpreter at a summary court-martial. When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

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94. When the court, the interpreter (if any) ^{Assembly.} and the officers attending the trial are assembled, the accused shall be brought before the court, and the oaths or affirmations prescribed in Rule 95 taken by the persons therein mentioned.

95. (a) The court shall make oath or affirmation ^{Swearing or affirming of court and interpreter.} in one of the following forms or in such other form to the same purport as may be according to its religion or otherwise binding on its conscience.

Form of oath.

"I do swear that I will duly administer justice, according to the Jammu and Kashmir Army Regulation, without partiality, favour, or affection, and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases. So help me God".

The words "So help me God" may, when necessary, be omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will duly administer justice" etc. as in the form of oath but omitting the words "So help me God".

(b) After which the court, or some person empowered by it, shall administer to the interpreter (if any) an oath or affirmation in one of the following forms, or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of oath.

"You do swear that you will faithfully interpret and translate, as you shall be required to do touching the matter before this court-martial. So help you God".

CHAPTER IV—*Investigation of charges and trial by Court-martial* – (continued).

The first person may, when necessary, be substituted for the second in this form of oath, and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial"—

(c) After the oaths and affirmation have been administered all witnesses will withdraw from the court.

Swearing of court to try several accused persons. 96. (a) A summary court-martial may be sworn or affirmed at the time to try any number of accused persons then present before it whether those persons are to be tried together or separately.

(b) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall proceed with one case post-poning the other cases and taking them afterwards in succession.

Arraign-ment of accused. 97. (a) After the court and interpreter (if any) are sworn or affirmed as above-mentioned, the accused shall be arraigned on the charges against him.

(b) The charges on which the accused is arraigned shall be read and, if necessary translated to him, and he shall be required to plead separately to each charge.

Objection by accused to charge. 98. The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Regulation, or is not in accordance with these rules.

Amend-ment of charge. 99. (a) At any time during the trial if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, it may amend the charge-sheet so as to correct that mistake.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(b) If on the trial of any charge it appears to the court at any time before it has begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration, in the charge is required, it may amend such charge and may, after due notice to the accused, and with the sanction of the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the accused if the amended charge requires such sanction, proceed with the trial on such amended charge.

100. If a special plea to the general jurisdiction of the court, or a plea in bar of trial, is offered by the accused, the procedure laid down for general and district courts-martial when disposing of such pleas shall, so far as may be applicable, be followed, but no finding by a summary court-martial on either of such pleas shall require confirmation.

Special
pleas.

101. (a) The accused person's plea——“Guilty” or “Not guilty” (or if he refuses to plead, or does not plead intelligibly either one or the other, a plea of “Not guilty”)——shall be recorded on each charge.

General
plea of
“Guilty” or
“Not guilty”

(b) If an accused person pleads “Guilty”, that plea shall be recorded as the finding of the court; but before it is recorded, the court shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure, which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence (if any) or otherwise that the accused ought to plead not guilty.

102. (a) Upon the record of the plea of “Guilty” if there are other charges in the same charge-sheet to which the plea is “Not guilty”, the trial shall first proceed with respect to those other charges, and, after the finding on those charges, shall proceed with the charges on which a plea of “Guilty” has been entered; but if they are alternative charges, the court may either proceed with respect

Procedure
after plea of
“Guilty”.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

to all the charges as if the accused had not pleaded "Guilty" to any charge, or may, instead of trying him, record a finding of "Not guilty" on each alternative charge to which the accused has not pleaded "Guilty".

(b) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the court shall read the summary of evidence, and annex it to the proceedings, or if there is no such summary, shall take and record sufficient evidence to enable it to determine the sentence and the reviewing officer to know all the circumstances connected with the offence. This evidence shall be taken in like manner as is directed by these Rules in the case of a plea of "Not guilty".

(c) After such evidence has been taken, or the summary of evidence has been read, as the case may be the accused may address the court in reference to the charge and in mitigation of punishment and may call witnesses as to his character.

(d) If from the statement of the accused, or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty" the court shall alter the record and enter a plea of "Not guilty" and proceed with the trial accordingly.

(e) If a plea of "Guilty" is recorded and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under (b) and (c) shall take place when the findings on the other charges in the same charge-sheet are recorded.

(f) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

Withdrawal of plea of "Not guilty". 103. The accused may, if he thinks fit, at any time during the trial, withdraw his plea of "Not guilty" and plead "Guilty" and in such case the court shall at once,

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

subject to a compliance with Rule 101 (b), record a plea and finding of "Guilty" and shall, so far as is necessary, proceed in manner directed by Rule 102.

104. After the plea of "Not guilty" to any charge is recorded the evidence for the prosecution will be taken. ^{Procedure after plea of "Not guilty"} At the close of the evidence for the prosecution the accused shall be asked if he has anything to say in his defence, and may address the court in his defence or may defer such address until he has called his witnesses.

The accused may then call his witnesses, including also witnesses to character.

105. The court may, if it thinks it necessary in the interests of justice, call witnesses in reply to the defence. ^{Witnesses in reply to defence.}

106. After all the evidence, both for prosecution and defence, has been heard, the court shall give its opinion as to whether the accused is guilty or not guilty of the charges. ^{Verdict.}

107. (a) The finding on every charge shall be recorded, and except as mentioned in these rules shall be recorded simply as a finding of "Guilty," or of "Not guilty" or of "Not guilty and honourably acquit him of the same". ^{Finding.}

(b) When the court is of opinion as regards any charge that the facts found to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of "Not guilty" record a special finding.

(c) The special finding may find the accused guilty on a charge, subject to the statement of exceptions or variations specified therein.

(d) When the court is of opinion that the facts proved do not disclose an offence under the Regulation, the court will acquit the prisoner on that charge.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Procedure
on acquittal.

108. If the finding on each of the charges in a charge-sheet is "Not guilty", the court shall date and sign the proceedings, the findings will be announced in open court, and the accused will be released in respect of those charges.

Procedure
on finding of
"Guilty".

109. (a) If the finding on any charge is "Guilty", the court may record of its own knowledge, or take evidence of and record, the general character, age, service, rank, and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial, or a criminal court, any previous punishments awarded to him by an officer exercising authority under section 20 of the Regulation, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military rewards, of which he may be in possession or to which he is entitled, and which the court can sentence him to forfeit.

(b) If the court does not record the matters mentioned in this rule of its own knowledge evidence on these matters may be taken in the manner directed in Rule 53 for similar evidence at general and district courts-martial.

Sentence.

110. The court shall award one sentence in respect of all the offences of which the accused is found guilty.

111. The court shall date and sign the sentence and such signature shall authenticate the whole of the proceedings.

Charges in
different
charge-
sheets.

112. When the charges at a trial by summary court-martial are contained in different charge-sheets, the procedure laid down for general and district courts-martial when trying charges contained in different charge-sheets, shall, so far as may be applicable, be followed.

Clearing
the court.

113. (a) The officer holding the trial may clear the court to consider the evidence or to consult with the officers attending the trial.

CHAPTER IV—*Investigation of charges and trial by Court martial*—(continued).

(b) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court and in the presence of the accused.

114. A summary court-martial may adjourn from time to time, and from place to place, and may, when necessary, view any place. Adjournment.

115. In any summary court-martial an accused person may have a person to assist him during the trial, whether a legal adviser or any other person. A person so assisting him may advise him on all points and suggest the questions to be put to witnesses, but shall not examine or cross-examine witnesses or address the court. Friend of accused.

116. An explanatory memorandum is to be attached to the proceedings when a summary court-martial tries, without reference, an offence which should not ordinarily be so tried. Memorandum to be attached to proceedings.

117. The sentence of a summary court-martial shall (except as provided in Rule 118) be promulgated, in the manner usual in the service, at the earliest opportunity after it has been pronounced and shall be carried out without delay after promulgation. Promulgation.

118. When the officer holding the trial has less than five years' service, the sentence of a summary court-martial, shall not (except on active service) be promulgated or carried out until approved by superior authority as provided in section 101 of the Regulation. Promulgation to be deferred in certain circumstances.

119. The proceedings of a summary court-martial shall, immediately on promulgation, be forwarded to the officer authorised to deal with them in pursuance of section 102 of the Regulation. After review by him they will be returned to the accused person's corps for preservation in accordance with Rule 132. Review of proceedings.

SECTION 4.—GENERAL PROVISIONS.

Witnesses and evidence.

120. The prosecutor or, in the case of trials by summary court-martial, the court is not bound to call all the witnesses whose evidence is in the summary of Calling all prosecutor's witnesses.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

evidence or whom the accused has been informed they intend to call, but they should ordinarily call such of them as the accused desires, in order, that he may cross-examine them, and shall, for this reason, so far as practicable, secure the attendance of all such witnesses.

Calling of witness whose evidence is not contained in summary.

121. If the prosecutor or (in the case of a summary court-martial) the court intends to call a witness whose evidence is not contained in any summary given to the accused, notice of the intention shall be given to the accused a reasonable time before the witness is called; and if such witness is called without such notice having been given, the court shall, if the accused so desire it, either adjourn after taking the evidence of the witness, or allow the cross-examination of such witness to be postponed, and the court shall inform the accused of his right to demand such adjournment or postponement.

List of witnesses of accused.

122. The accused shall not be required to give to the prosecutor or court a list of the witnesses whom he intends to call, but it shall rest with the accused alone to secure the attendance of any witness whose evidence is not contained in the summary, and for whose attendance the accused has not requested steps to be taken as provided by Rules 23 (a).

Procuring attendance of witnesses.

123. (a) In the case of trials by general or district court-martial the convening officer, or, after the assembly of the court, the president, shall take proper steps to procure the attendance of the witnesses whom the prosecutor or accused desires to call, and whose attendance can reasonably be procured, but the person requiring the attendance of a witness may be required to undertake to defray the cost (if any) of his attendance.

(b) The court shall, in the case of trials by summary court-martial, take proper steps to procure the attendance of the witnesses whom the accused desires to call and whose attendance can reasonably be procured, but the accused may be required to undertake to defray the cost (if any) of their attendance.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

124. If such proper steps as mentioned in the preceding rule have not been taken as to any witness, or if any witness whose attendance could not be reasonably procured before the assembly of the court is essential to the prosecution or defence, the court shall—

Procedure when essential witness is absent.

- (a) take steps to procure the issue of a commission for the examination of such witness; or
- (b) if it is a general or district court-martial, adjourn and report the circumstances to the convening officer; or
- (c) if it is a summary court-martial, adjourn to enable the witness to attend, or adopt such other course as appears to the officer holding the trial best calculated to do justice.

125. During the trial a witness, other than the prosecutor shall not, except by special leave of the court, be permitted to be present in court while not under examination and if, while he is under examination, a discussion arises as to the allowance of a question, or the sufficiency of his answers, or otherwise as to his evidence, he may be directed to withdraw.

Withdrawal of witnesses from court.

126. An oath or affirmation shall be administered to every witness, before he gives his evidence by a member of the court, the judge-advocate, the superintendent officer or some other person empowered by the court in one of the following forms or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the witnesses.

Oath or affirmation to be administered to witnesses.

Form of oath.

"You do swear that what you shall state shall be the truth, the whole truth, and nothing but the truth. So help you God".

CHAPTER IV — *Investigation of charges and trial by Court-martial*—(continued).

The first person may, when necessary, be substituted for the second in this form of oath, and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth".

Mode of
questioning
witness.

127. (a) Every question may be put to a witness orally by the officer holding the trial, the prosecutor, accused, or judge-advocate, and the witness will forthwith reply, unless an objection is made by the court, judge-advocate, prosecutor, or accused, in which case he shall not reply until the objection is disposed of. The witness shall address his reply to the court.

(b) The evidence of a witness as taken down shall be read to him after he has given all his evidence and before he leaves the court, and shall, if necessary, be corrected.

(c) If the witness denies the correctness of any part of the evidence when the same is read over to him, the court may instead of correcting the evidence, record the objection made to it by the witness.

(d) If the evidence is not given in English or Urdu and the witness does not understand that language the evidence as recorded shall be interpreted to him in the language in which it was given, or in a language which he understands.

Question to
witnesses by
court or
judge-advocate.

128. (a) At any time before the time for the second address of the accused (or at a summary court-martial at any time before the finding of the court), the officer holding the trial, the judge-advocate and any member of the court may, subject to the provisions of this rule, address any question to a witness.

(b) At a general or district court-martial such questions shall only be addressed to witnesses with the

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

permission of the court and through the officer conducting the proceedings.

(c) Upon any such question being answered, the officer holding the trial or conducting the proceedings shall also put to the witness any question relative to that answer which he may be requested to put by the prosecutor or the accused, and which the court deems reasonable.

129. (a) At the request of the prosecutor or accused person a witness may, by leave of the court, be re-called at any time before the time for the second address of the accused (or at a summary court-martial at any time before the finding of the court), for the purpose of having any question put to him through the officer holding the trial or conducting the proceedings.

Re-calling
of witnesses
and calling
of witnesses
in reply.

(b) A witness may, in special cases, be allowed by the court to be called or re-called by the prosecutor before the time for the second address of the accused, for the purpose of rebutting any material statement made by a witness for the defence upon his examination by the accused on any new matter which the prosecutor could not reasonably have foreseen.

(c) Where the accused has called witnesses to character, the prosecutor, before the time for the second address of the accused, may call or re-call witnesses for the purpose of proving a previous conviction or entries in the defaulters' book against the accused.

(d) The court may call or re-call any witness at any time before the finding, if it considers that it is necessary for the ends of justice.

Address.

130. All addresses by the prosecutor and the accused and the summing-up of the judge-advocate may either be given orally or be in writing, and, if in writing, shall be read in open court.

Address may
be in writ-
ing.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Insanity.

Provision as to finding of insanity.

131. Where the court finds either that the accused is of unsound mind and consequently incapable of making his defence or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the president or the officer holding the trial shall date and sign the finding; and the proceedings, upon being signed by the judge-advocate, or superintending officer, if any, shall be at once transmitted to the confirming officer or the prescribed officer, as the case may be, to whom the case is reported under sub-section (1) of section 103-A of the Regulation.

Preservation of proceedings.

Preservation of proceedings.

132. (a) The proceedings of a court-martial (other than a summary court-martial) shall, after promulgation, be forwarded as circumstances require, to the office of the General Staff Officer, and there preserved for not less, in the case of a general court-martial, than seven years, and in the case of any other court-martial than three years.

(b) The proceedings of a summary court-martial shall be preserved for not less than three years, with the records of the corps or department to which the accused belonged.

Right of person tried to copies of proceedings.

133. Every person tried by a court-martial shall be entitled on demand, at any time after the confirmation of the finding and sentence, when such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings, a copy thereof, including the proceedings upon revision, if any, upon payment for the same of seven annas for the first two hundred words, and half that rate for each subsequent two hundred words, or part thereof.

Loss of proceedings.

134. (a) If the original proceedings of a court-martial, or any part thereof, are lost, a copy thereof, if any, certified by the president, the judge-advocate, the superintend-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

ing officer or the officer holding the trial, may be accepted in lieu of the original.

(b) If there is no such copy, and sufficient evidence of the charge, finding, sentence, and transactions of the court can be procured, that evidence may, with the assent of the accused, be accepted in lieu of the original proceedings, or part thereof lost.

(c) In any case above in this rule mentioned the finding and sentence, if requiring confirmation, may be confirmed, and shall be as valid as if the original proceedings, or part thereof, had not been lost.

(d) If, in a case where confirmation of a finding or finding and sentence, is required, the proceedings, or part thereof, were lost before confirmation, and there is no such copy or evidence, or the accused refuses such assent, as above-mentioned, the accused may be tried again, and on the issue of an order convening the court for the trial, the finding and sentence of the previous court, of which the proceedings were so lost, shall be null.

Irregular procedure when no injustice is done.

135. Whenever it appears that a court-martial had jurisdiction to try any person and that person was charged with some offence of offences under the Regulation, and was shown by legal evidence to have been guilty of the offence or one of the offences charged, the finding in respect of the offence or offences of which he is so shown to be guilty, and the sentence may (if confirmation is necessary) be confirmed, and shall, if so confirmed, and in all cases where confirmation is not necessary, be valid, notwithstanding any deviation from these rules, or any defect or objection, technical or other, unless it appears that any injustice has been done to the offender, and where any finding and sentence are otherwise valid they shall not be invalid by reason only of a failure to administer an oath or affirmation to the interpreter, shorthand writer, or writer; but nothing in this rule shall relieve an officer from any responsibility for any wilful or negligent disregard of any of these rules.

Validity of
irregular pro-
cedure in
certain cases.

CHAPTER IV—*Investigation of charges and trial by Court-martial—(continued).*

Offences of witnesses and others.

Offence of
witnesses and
others.

136. When any court-martial is of opinion that there is ground for inquiring into any offence specified in section 38 of the Regulation and committed before it or brought under its notice in the course of its proceedings, or into any act done before it or brought under its notice in the course of its proceedings which would, if done by a person subject to the Regulation, have constituted such an offence, such court-martial may proceed as follows, that is to say :—

(a) If the person who appears to have committed the offence is subject to the Regulation, the court may bring his conduct to the notice of the proper military authority, and may also order him to be placed in military custody with a view to his punishment by an officer exercising authority under section 20 of the Regulation or to his trial by court-martial.

(b) Omitted.

(c) If the person who appears to have done the act is not subject to the Regulation, then in the case of acts which would, if done by a person subject to the Regulation, have constituted an offence under clause (a) of section 38 of the Regulation, the officer who summoned the witness to appear or the officer conducting the proceedings of the court-martial, as the case may be, may forward a written complaint to the nearest Magistrate of the first class having jurisdiction, and in the case of acts which would, if done as aforesaid, have constituted an offence under clause (b) or clause (c) of the said section, the court, after making any preliminary enquiry that may be necessary, may send the case to the nearest Magistrate of the first class having jurisdiction for enquiry or trial in accordance with section 476 of the Code of Criminal Procedure, 1969.

SECTION 5.—SUMMARY GENERAL COURTS-MARTIAL.

The following rules in this Chapter, shall not, save as hereinafter mentioned, apply to summary general

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

courts-martial which shall be subject to the following rules:-

137. The court may be convened and the proceedings of the court recorded in accordance with the form in the third appendix to these rules, with such variations as the circumstances of each case may require. Convening the court and record of proceedings.

138. The statement of an offence may be made briefly in any language sufficient to describe or disclose an offence under the Regulation. Charge.

139. The court may be sworn at the same time to try any number of accused persons then present before it, but, except so far as accused persons are tried together for an offence committed collectively, the trial of each accused person will be separate. Trial of several accused persons.

140. (a) The names of the president and members of the court shall be read over to the accused who shall thereupon be asked if he objects to be tried by any of these officers. Challenges.

(b) Any objection will be decided as provided for in section 80 of the Regulation—the vacancies being filled from among the waiting members (if any) or by fresh members being appointed by the convening officer.

141. (a) As soon as the court is constituted with the proper number of officers who are not objected to, or the objections to whom have been over-ruled, an oath or affirmation shall be administered to every member in such of the forms laid down in Rule 35 as shall be appropriate, or in such other form to the same purport as the court ascertain to be according to his religion or otherwise binding on his conscience. Swearing or affirming the court.

(b) If an interpreter or superintending officer has been appointed, the appropriate oath or affirmation, as laid down in Rule 36, shall be administered to him.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(c) All oaths and affirmations shall be administered by a member of the court or by some person empowered by the court to do so.

Arriagnment

142. When the court are sworn or affirmed, the president shall state to the accused then to be tried, the offence with which he is charged, with, if necessary, an explanation giving him full information of the act or omission with which he is charged and shall ask the accused whether he is guilty or not of the offence.

Plea to jurisdiction.

143. If a special plea to the general jurisdiction is offered by the accused, and is considered by the court to be proved, the court shall report the same to the convening officer.

Evidence:

144. (a) The witnesses for the prosecution will be called and the accused shall be allowed to cross-examine them and to call any available witnesses for his defence.

(b) An oath or affirmation as laid down in Rule 126 shall be administered to every witness, before he gives his evidence, by one of the persons specified in that rule.

Defence.

145. The accused shall be asked what he has to say in his defence, and shall be allowed to make his defence. He may be allowed to have any person to assist him during the trial, whether a legal adviser or any other person.

Record of the evidence and defence.

146. The president of the Court shall take down or cause to be taken down a brief record of the evidence of the witnesses at the trial and of the defence of the accused; the record so taken down shall be attached to the proceedings:

Provided that, if it appears to the convening officer that military exigencies or other circumstances prevent compliance with this provision, he may direct that the trial may be carried on without any such brief record being taken down.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

If the accused pleads "Guilty" the summary of evidence, if any, may be read and attached to the proceedings, and it shall not be necessary for the Court to hear witnesses for the prosecution respecting matters contained in the summary of evidence so read.

147. The court shall then be closed to consider its finding. If the finding on any charge is "guilty" the court may receive any evidence as to previous convictions and character which is available. The court shall then deliberate in closed court as to its sentence. Finding and sentence.

148. (a) If the proceedings do not require confirmation, the result shall be announced in open court and the sentence carried into effect as soon as possible. Proceedings after sentence or finding.

(b) If the proceedings require confirmation they shall be transmitted without delay to the confirming officer and the sentence (if any) carried out as soon as possible after his confirmation has been received.

149. (a) A summary general court-martial may adjourn from time to time and from place to place and may when necessary view any place. Adjournment.

(b) The proceedings shall be held in open court, in the presence of the accused, except on any deliberation among the members, when the court may be closed.

150. The foregoing rules—59 (Mitigation of sentence on partial confirmation), 61 (Confirmation notwithstanding informality in or excess of punishment), 80 (Transmission of proceedings after finding), 131 (Provision as to finding of insanity), 132 (Preservation of proceedings), 134 (Right of person tried to copies of proceedings), 133 (Loss of proceedings), and 135 (Validity of irregular procedure in certain cases)—shall, so far as practicable, apply as if a summary general court-martial were a district court-martial. Application of rules.

151. Any statement in an order convening a summary general court-martial as to the opinion of the convening officer shall be conclusive evidence of that Evidence of opinion of convening officer.

CHAPTER IV—*Investigation of charges and trial by Court-martial* (continued).

opinion, but this rule shall not prejudice the proof at any time of any such opinion when not so stated.

SECTION 6.—EXECUTION OF SENTENCES.

Committal warrants.

152. A warrant for the committal of a person sentenced by a court-martial to a civil prison under the provisions of section 107 of the Regulation shall be in one of the forms given in the Fourth Appendix to these rules. Such warrant shall be signed by the commanding officer of the prisoner or by his staff officer, if any.

Warrants under section 109 of the Regulation.

153. Any warrant issued under the provisions of section 109 of the Regulation shall be in one of the forms given in the Fourth Appendix to these Rules, and shall be signed by the officer making the order in pursuance of which such warrant is issued, or by his staff officer.

Sentence of dismissal or suspension.

154. (a) A sentence of dismissal awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under sentence, or from such subsequent date as may be specified by the commanding officer at the time of such promulgation:

Provided that, when dismissal is combined with imprisonment which is carried out in military custody or with field punishment, the dismissal shall not take effect until the date on which the prisoner is duly released from military custody, or until the completion of the field punishment, unless such field punishment is remitted by competent authority:

Provided also that, when dismissal is combined with imprisonment for life or with imprisonment which is carried out in a civil prison, the dismissal shall not take effect until the date on which the prisoner is received into a civil prison.

(b) A sentence of suspension awarded by a court-martial shall, if no confirmation is necessary, take effect from the date on which it is signed by the president; if confirmation is necessary, such sentence shall take effect from the date on which, having duly confirmed, it is communicated to the offender.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

SECTION 7.—FIELD PUNISHMENT.

155. (1) A court-martial or an officer exercising au-^{Field punish-}thority under section 20 of the Regulation may, for the purpose of awarding field punishment under the Regulation sentence an offender for a period not exceeding, in the case of a court-martial, three months, and in the case of such an officer, twenty-eight days, to one of the following punishments, namely:—

(a) Field Punishment No. 1

(b) Field Punishment No. 2

(2) Where an offender is sentenced to field punishment No. 1, he may, during the continuance of his sentence, unless the court-martial or the officer, as the case may be, otherwise directs, be punished as follows:—

(a) He may be kept in irons, that is to say in fetters or hand-cuffs or both, — fetters and hand-cuffs, and may be secured so as to prevent his escape.

(b) When in irons, he may be attached for a period or periods not exceeding two hours in any one day to a fixed object, but he must not be so attached during more than three out of any four consecutive days, nor during more than twenty-one days in all.

Explanation 1.—The offender must be attached so as to be standing firmly on his feet which, if tied, must not be more than twelve inches apart, and it must be possible for him to move each foot at least three inches. If he is tied round the body there must be no restriction of his breathing. If his arms or wrists are tied, there must be six inches of play between them and the fixed object. His arms must hang either by the side of his body or behind his back.

Explanation 2.—For the purpose of this punishment irons should be used when available but straps or

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(concluded).

ropes may be used in lieu of them when necessary. Any straps or ropes used for this purpose must be of sufficient width to inflict no bodily harm, and leave no permanent mark on the offender.

(c) He may be subjected to the like labour, employment and restraint, and dealt with in like manner as if he were undergoing a sentence of rigorous imprisonment.

(3) Where an offender is sentenced to field punishment No. 2, the provisions of sub-rule (2) with respect to field punishment No. 1 shall apply in his case except that he shall not be liable to be attached to a fixed object as provided in clause (b) of that sub-rule.

(4) Every portion of a field punishment shall be inflicted in such a manner as is calculated not to cause injury or leave any permanent mark on the offender; and a portion of a field punishment must be discontinued upon a report by a responsible medical officer that the continuance of that portion would be prejudicial to the offender's health.

(5) Field punishment will be carried out regimentally when the unit to which the offender belongs or is attached is actually on the move, but when the unit is halted at any place where there is a provost-marshal the punishment will be carried out under the orders of that officer.

(6) When the unit to which the offender belongs or is attached is actually on the move, an offender awarded field punishment No. 1 shall be exempt from the operation of clause (b) of sub-rule (2), but all offenders awarded field punishment shall march with their unit, carry their arms and accoutrements, perform all their military duties as well as extra fatigue duties, and be treated as defaulters.

CHAPTER V.

COURTS OF INQUIRY.

Losses or thefts of arms.

156. (a) Whenever any weapon or part of a weapon which forms part of the equipment of a half squadron, battery, company or other similar unit, and in respect of the loss or theft of which a fine may be imposed under rule 157 is lost or stolen, a court of inquiry shall be assembled, under the orders of the officer commanding the Brigade Area, to investigate the circumstances under which the loss or theft occurred.

Court of inquiry when rifle etc. are lost or stolen.

(b) The officer who assembled the court shall direct it to record an opinion as to the circumstances of the loss or theft.

157. (a) The officer commanding the Brigade Area shall then record his opinion on the circumstances of the loss or theft, and the Army Minister may on his report, impose for each weapon or part of a weapon lost or stolen collective fines to the extent hereinunder specified on the officers, non-commissioned officers, and men of such unit or upon so many of them as he considers should be held responsible for the occurrence.

Collective fine may be imposed.

	Rs.
Maxim or Vickers Gun	... 1,600
Hotchkiss or Lewis Gun	... 1,000
Rifle or Carbine	... 800
Pistol	... 175
Barrel of a Machine Gun	... 100
Bolt of a rifle, carbine or Lewis Gun	50
Magazine of a Lewis Gun	... 50
Lock of a Maxim or Vickers Gun...	50
Breech Block of a Hotchkiss Gun...	50
Grenade	... 20

CHAPTER V—*Courts of Inquiry*—(continued).

(b) Such fine will be assessed as a percentage on the pay of the individuals on whom it falls.

Regulation for courts of inquiry other than courts of inquiry held under section 126 of the Regulation.

158. (a) A court of inquiry is an assembly of officers directed to collect evidence, and, courts of inquiry if so required to report with regard to any matter which may be referred to them.

(b) A court of inquiry may be assembled by the officer in command of any body of troops, whether belonging to one or more corps.

(c) The court may be composed of any number of officers of any rank, and of any branch or department of the service, according to the nature of the investigation.

(d) The court shall be guided by the written instructions of the authority who assembled the court. The instructions shall be full and specific, and shall state the general character of the information required. They shall also state whether a report is required or not.

(e) Previous notice should be given of the time and place of the meeting of a court of inquiry, and of all adjournments of the court, to all persons concerned in the inquiry except a prisoner of war who is still absent.

(f) Save in the case of a prisoner of war who is still absent, whenever any inquiry affects the character or military reputation of a person subject to military law, full opportunity must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence, in his opinion, affects his character or military reputation, and producing any witnesses in defence of his character or military reputation.

CHAPTER V—*Courts of Inquiry*—(continued).

(g) It is the duty of a court of inquiry to put such questions to a witness as they think desirable for testing the truth or accuracy of any evidence he has given, and otherwise for eliciting the truth.

(h) When a court of inquiry is held on prisoners of war, and in any other case in which the officer who assembled the court has so directed, the evidence shall be taken on oath or affirmation, in which case the court shall administer the same oath or affirmation to witnesses as if the court were a court-martial.

The officer who assembled the court shall, when the court is held on a returned prisoner of war or on a prisoner of war who is still absent, direct the court to record their opinion whether the person concerned was taken prisoner through his own wilful neglect of duty or whether he served with or under or aided the enemy he shall also direct the court to record their opinion in the case of a returned prisoner of war, whether he returned, as soon as possible, to the service, and in the case of a prisoner of war still absent whether he failed to return to the service when it was possible for him to do so.

The officer who assembled the court shall also record his own opinion on these points. In other cases the court shall give no opinion on the conduct of any person unless so directed by the officer who assembled the court.

(i) The members of the court shall not themselves be sworn or affirmed, but when the court is a court of inquiry on recovered prisoners of war the members shall make the following declaration:—

I—A. B., do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which became a prisoner of war according to the true spirit and meaning of the Regulation of the Army; and I do further declare, upon my honour that I will not on any account, or at any time, disclose or discover my own vote or

CHAPTER V—*Courts of Inquiry*—(continued).

opinion, or that of any particular member of the court, unless required to do so by competent authority.

(j) The court may be re-assembled as often as the officer who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness, or recording further information.

(k) The whole of the proceedings of a court of inquiry shall be forwarded by the president to the officer who assembled the court.

(l) The proceedings of a court of inquiry, or any confession, statement, or answer to a question made or given at a court of inquiry, shall not be admissible in evidence against a person subject to Military law, nor shall any evidence respecting the proceedings of the court be given against any such person except upon the trial of such person for wilfully giving false evidence before that court.

(m) Any person subject to the Regulation who is tried by court-martial in respect of any matter or thing which has been reported on by a court of inquiry, and unless the Commander-in-Chief sees reason to order otherwise, any person so subject whose character or military reputation is, in the opinion of the said Commander-in-Chief, affected by anything, in the evidence before, or in the report of a court of inquiry, shall be entitled to a copy of the proceedings of the court, including any report made by the court, on payment at the rate laid down in Rule 133 for copies of the proceedings of courts-martial.

Regulations for Courts of inquiry under section 126 of the regulation for the purpose of determining the Illegal absence of persons subject to that regulation.

Courts of
inquiry as
to illegal
absence

159. (a) A court of inquiry under section 126 of the Regulation shall, when assembled, require the attendance of such witnesses as they think sufficient to

CHAPTER V—*Courts of Inquiry*—(concluded).

prove the absence and other facts specified as matters of inquiry in that section. under
section 126
of the
Regulation.

(b) They shall take down the evidence given them in writing and at the end of the proceedings shall make a declaration of the conclusions at which they have arrived in respect of the facts they are assembled to inquire into.

(c) The commanding officer of the absent person shall enter in the court-martial book of the corps or department a record of the declaration of the court, and the original proceedings will be destroyed.

(d) The court of inquiry shall examine all witnesses who may be desirous of coming forward on behalf of the absentee, and shall put such questions to them as may be desirable for testing the truth or accuracy of any evidence they have given, and otherwise for eliciting the truth, and the court in making their declaration shall give due weight to the evidence of all such witnesses.

(e) A court of inquiry shall administer the same oath or affirmation to the witnesses as if the court were a court-martial, but the members of such court shall not themselves be sworn or affirmed.

CHAPTER VI.

PRESCRIBED OFFICERS, AUTHORITIES AND OTHER MATTERS.

160. All powers which may under the Regulation and these Rules, be exercised by the Officer Commanding a Brigade Area shall, as regards persons subject to the said Regulation who may be serving under his orders, be exercised on active service outside the State by the Officer Commanding an Army, Army Corps, Division, Brigade, or Independent Brigade under whom His Highness' Forces may be serving. Prescribed
officers
under sec-
tion 6 of
the Regu-
lation.

CHAPTER VI—*Prescribed officers, authorities and other matters—*(continued).

“Corps”
prescribed
under sec-
tion 7 (9)
of the Re-
gulation.

161. (a) Each of the following separate bodies of persons subject to the Regulation shall be a “corps” for the purpose of Chapter II and section 30 (c) of the said Regulation and of Chapters II and III of these Rules.

(ii) Each regiment of Cavalry.

(iii) The Artillery.

(xiii) Each regiment or each ungrouped battalion of Infantry, or Rifles (as the case may be).

(xiv) The Jammu and Kashmir Army Service Corps.

(xv) The Jammu and Kashmir Hospital Corps.

(xvi) The Jammu and Kashmir Army Veterinary Corps.

(xx) Any other separate body of persons subject to the Regulation employed on any service and not attached to any of the above corps or to any department.

(b) Every unit in which a court-martial book is maintained shall be a “corps” for the purposes of section 126 of the Regulation and Rule 159.

(c) For the purposes of every other provision of the said Regulation and rules each of the following separate bodies shall be a “corps” :—

(i) Each regiment of cavalry or battalion of infantry or rifles.

(iv) Each Brigade, group or similar body of Artillery.

(v) Each unbrigaded battery or section of Artillery.

CHAPTER VI—*Prescribed officers, authorities and other matters—(continued).*

- (xi) Each company or depot of the Jammu and Kashmir Army Service corps.
- (xi-a) Each Temple Company when not attached to another body.
- (xii) Each company of the Hospital Corps.
- (xiii) Each section of the Army Veterinary Corps.
- (xv) Any separate body of persons subject to the Regulation which is a "corps" under the provisions of clause (A) (XX) of this Rule.

161-A. (a) The prescribed officer for the purposes of section 14 of the Regulation shall, as regards Military Medical pupils be the Director of Medical Service.

Prescribed officers under section 14 of the Regulation.

162. The authorities empowered to reduce a non-commissioned officer to lower grade or to the ranks shall, on active service include the officer commanding the forces in the field.

Prescribed officers under sections 19 of the Regulation.

162-A. The prescribed officer for the purposes of section 49-A of the Regulation shall be the officer commanding the forces in the field, or in the case of a sentence which he confirms or could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or brigade of the Indian or British Army under which His Highness' Forces may be serving.

Prescribed officers under section 49-A of the Regulation.

163. Any penal deduction from the pay and allowances of a person subject to the Regulation, made under Chapter VII thereof may be remitted as herein-after provided:—

Prescribed authorities under section 52 of the Regulation.

(a) Any penal deduction from the pay and allowances of any such person may be remitted by His Highness the Maharaja Bahadur.

CHAPTER VI—*Prescribed officers, authorities and other matters*—(continued).

(b) The commanding officer of any such person who has been absent without leave for a period not exceeding five days may, unless the person is convicted by a court-martial on a charge for such absence, remit the forfeiture of pay and allowances to which that absence renders him liable.

(c) A forfeiture of pay and allowances incurred by any such person owing to his absence as a prisoner of war may (unless it shall have been proved before a court of enquiry that he was taken prisoner, through his own wilful neglect of duty, or that he served with or under, or aided, the enemy, or that he did not, as soon as possible, return to the service) be remitted by the Commander-in-Chief, by the Army Minister or by the officer commanding the forces in the field.

Prescribed authorities under section 52-A of the Regulation.

163-A. The prescribed authorities for the purposes of section 52-A of the Regulation shall be the Commander-in-Chief and the Army Minister.

Prescribed authorities under sections 69 and 70 of the Regulation

164. The prescribed military authority for the purpose of sections 69 and 70 of the Regulation shall be the Army Minister.

Prescribed officer under section 102 of the Regulation.

164-A. The prescribed officer for the purposes of section 102 of the Regulation shall, whenever any unit is temporarily withdrawn from its territorial area, be the officer, not being below the rank of field officer, commanding the corresponding area within which the trial is held :

Provided that, when the officer who held the trial is himself the commander of such area, he shall forward the proceedings to superior authority.

When the trial is held on board a ship the prescribed officer shall be the officer commanding the troops on board the ship, or the officer who would have had power to deal with the proceedings had the trial been held at the port of disembarkation.

CHAPTER VI—*Prescribed officers, authorities and other matters—(continued).*

Provided that, when the officer who held the trial is himself the officer commanding the troops on board the ship, he shall forward the proceedings to the authority at the port of disembarkation.

164-AA. (1) The prescribed officer for the purposes of sub-section (1) of section 103-A of the Regulation shall be. —

Prescribed officers and manner of custody under section 103-A of the Regulation.

In the case of a trial by summary court-martial.

The Authority empowered to deal with the proceedings of such a court under section 102 of the Regulation.

In the case of a trial by summary general court-martial.

The convening officer or any authority superior to him.

(2) The prescribed officer for the purposes of sub-section (5) of section 103-A of the Regulation shall be the officer commanding the brigade within the area of whose command the accused is in custody or is detained, and, in the case of an accused who has been found by a summary general court-martial to be of unsound mind, shall include the officer who has power to convene a summary general court-martial for the trial of that accused; and, in the case of an accused who has been found by a summary court-martial to be of unsound mind and who is in the custody of or is detained under the charge of, the corps, department or detachment to which he belongs, shall include the commanding officer of that corps, department or detachment:

Provided that, where an officer who proposes to act as a prescribed officer under sub-section (5) of section 103-A of the Regulation is under the command of the officer who has taken action in the case under sub-section (3) of that section, he shall ordinarily obtain the approval of such officer, before he acts; but, if he is of opinion that military exigencies, or the necessities of discipline render it impossible or inexpedient to obtain such approval, he may act without obtaining such approval but shall report his action and the reasons therefor to such officer.

CHAPTER VI *Prescribed officers, authorities and other matters — (continued).*

(3) For the purposes of sub-section (3) of section 103-A of the Regulation the manner in which an accused person shall be kept in custody shall be as follows :—

The accused shall be confined in such manner, as may, in the opinion of the proper military authority, be best calculated to keep him securely without unnecessary harshness, as he is not to be considered as a criminal but as a person labouring under a disease.

164-B. (b) The prescribed officer for the purposes of section 112 of the Regulation shall be :—

Prescribed officers under section 112 of the Regulation.

(a) As regards persons undergoing sentence in a civil prison or any other place.

The Army Minister.

(b) As regards persons convicted on active service.

The officer commanding the forces in the field.

Prescribed officer under section 91-A of the Regulation.

164-C. The prescribed officer for the purposes of sub-section (1) of section 91-A of the Regulation shall be the officer commanding the brigade to which the person appears to have belonged or alleges that he belongs or had belonged.

Prescribed persons under sections 114 & 115 of the Regulation.

165. (a) The prescribed person for the purposes of section 114 of the Regulation shall be the Accountant General.

(b) The prescribed person for the purposes of section 115 of the Regulation shall be the person referred to in paragraph (A) of this rule, and, so long as the commanding officer has under the Regulation the control of the property of the deceased person or lunatic or of the proceeds of the sale of such property, shall also include such commanding officer.

APPENDICES.

FIRST APPENDIX.

ENROLMENT FORM.

Form No. I.—Combatants.

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the Government of Jammu and Kashmir and, save as is hereinafter provided, no person shall, by reason of an error in his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

ENROLMENT OF

No. _____ Name _____ as a
 Combatant in the _____ Corps.
 Department.

(a) Class in which the person desires
 to be enrolled .. (a) _____

QUESTIONS TO BE PUT BEFORE ENROLMENT.

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the following eight questions, you will be liable to be punished as provided in the Jammu and Kashmir Army Regulation.

1. What is your name ? .. 1. _____
2. What is your father's name ? .. 2. _____
3. What is your religion, class and tribe ? 3. _____
4. What is your Village, Thana, Tehsil,
 and District ? .. 4. Village _____
 Thana _____
 Tehsil _____
 District _____
5. Have you ever been imprisoned by
 the Civil Power ? .. 5. _____
6. Do you now belong to His Highness' Forces, His Majesty's Forces, the Reserve, the Indian Territorial Force, the forces of any Indian State or to the Nepal State Army ? 6. _____

(a) For use when a recruit is enrolled for service in a special class (e.g. school-master, clerk, artificer, musician, bugler, etc.)

First Appendix—(continued).

7. Have you ever served in His Highness' Forces, His Majesty's Forces, the Reserve, the Indian Territorial Force, the forces of any Indian State, or in the Nepal State Army? If so, state in which and the cause of discharge (b) .. 7. _____
8. Are you in receipt of any allowance from Government? If so, on what account? .. 8. _____
9. Do you desire your former service in His Highness' Forces to reckon towards good conduct pay, pension or gratuity when such are admissible by refunding any gratuity you may have received on or since discharge in not more than 36 monthly instalments commencing from date of re-enrolment? (c) .. 9. _____
10. Are you willing to be enrolled in the? (d) .. 10. _____
11. Are you willing to go wherever ordered, by land, sea or air, and not to allow any caste usage to interfere with your military duty? (If the enrolment is under any special orders of the Government of Jammu and Kashmir for local services, the locality will be indicated in this question after the word "ordered" e. g. in Poonch .. 11. _____
12. Are you willing to be vaccinated or re-vaccinated? .. 12. _____
13. Are you willing to serve until discharged in accordance with the following conditions provided His Highness shall so long require your services? (e) .. 13. _____

Enrolments in special cases when authorised in time of war or emergency.

When you have served for
you will be entitled to receive your discharge with all convenient speed.

(b) If so, the recruit should be asked to produce his discharge certificate.

(c) To be omitted in cases where no former service is declared in answer to question 7, and in cases in which, under the special orders of the Government of Jammu and Kashmir, former service may be reckoned for these purposes without refund of gratuity.

(d) Enter corps or department in which enrolled.

(e) The set of conditions which is not applicable are to be struck out, and the appropriate period of service is to be entered in the set of conditions which is applicable.

(f) For use on mobilization only in the case of direct enrolment of men not requiring previous training.

Rate of pay for which enrolled. Rs. _____ per mensem.

First Appendix—(continued).

I do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made.

Signature of witness.

Signature of Recruit.

(Thumb impression if recruit is unable to write.)

CERTIFICATE OF ENROLLING OFFICER.—The conditions of service, for which he is now enrolled were read and explained to the above-named person by me (or in my presence). After having cautioned him that if he made a false answer to any of the above questions Nos. 1 to 8, he would be liable to be punished as provided in the Jammu and Kashmir Army Regulation, I put all the above questions to him and his answer to each question has been duly entered as replied to. I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at _____ this _____ day of _____ 19 .

Signature of Enrolling Officer.

ATTESTATION.— CERTIFIED that the above named person took the prescribed _____ oath before me at _____ his _____ affirmation _____ day of _____ 19

Signature of Attesting Officer.

VARIATION OF CONDITIONS AS TO DISCHARGE.—This variation may be repeated, if necessary.

For use when a person (1) *agrees to extend or vary his period of service for such period as may be authorised by the regulations for the time being in force of the Government of Jammu and Kashmir ; or*

(2) *is transferred with his own consent to a class, arm or branch having a period of service different from that in which he was enrolled ; or*

(3) *on commencing with his own consent, training in special duties, agrees to serve for the period required by the regulations for the time being in force of the Government of Jammu and Kashmir from persons trained in such special duties.*

I agree to serve _____ for _____ before being entitled to my discharge. until I shall have completed _____

I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time, should His Highness no longer require my services.

Signature.

Signed in my presence at _____ this _____ day of _____ 19 .

Signature of Commanding Officer.

First Appendix — (continued).

DESCRIPTION ON ENLISTMENT. (See instructions below).

To be completed by R. O. or A. R. O. (a).

Apparent age _____ years. Chest Measurement. { Minimum _____ inches. }
 Height _____ feet _____ inches. { Maximum _____ inches. } (b)

To be completed by Medical Officer.

I consider him* _____ for the Army.

Identification marks
 or
 Cause of unfitness. {

Date _____

Place _____

Medical Officer,

*Insert here "fit" or "unfit."

(a) To be completed by the M. O. of the unit in the case of a recruit enrolled at unit head-quarters.

(b) The measuring tape should be applied evenly but not tightly, its upper edge touching the lower border of the shoulder blades, and its lower edge passing just over the nipples, the arms hanging by the sides. The minimum measurement will be taken after the breath has been expelled from the chest and the maximum, when the chest is fully expanded. There should be a difference of at least two inches between the minimum and maximum measurements.

INSTRUCTIONS.

(1) Previous to the medical inspection of a recruit or his rejection by the R. O. or A. R. O. his name, age, height and chest measurements, together with the name of the corps in which he desires to be enrolled and the answers to questions 1 and 2 should be entered on the form. Subsequent to the medical inspection questions 1 to 14 with the warning as to the penalty for making a false answer to certain of them, must be put to recruit and his answers checked or recorded before his final approval and enrolment.

(2) The form will be forwarded by the Recruiting Officer to the Officer Commanding the Corps of the recruit concerned, immediately on enrolment. After the necessary entries have been transcribed in the sheet-roll of the soldier, it will be attached to the sheet-roll as a permanent record.

TO BE COMPLETED BY THE R. O. OR A. R. O.

Name of recruit _____ Son of _____
 Enrolled for _____ Unit.

* Opinion of R. O. or A. R. O.

* Insert "approved" or "rejected," and if the latter, give reason for rejection.

*First Appendix—(continued).***Form No. II.—Non-combatants.**

(Persons for whom no special form of enrolment has been prescribed.)

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the Government of Jammu and Kashmir: and, save as is hereinafter provided, no person shall, by reason of an error on his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

ENROLMENT OF

No. _____ Name _____ as a Non-Combatant,
namely (a) _____ in the _____ Corps.
Department.

Questions to be put before Enrolment.

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the following eight questions you will be liable to be punished as provided in the Jammu and Kashmir Army Regulation.

1. What is your name ? .. 1 _____
2. What is your father's name ? .. 2. _____
3. What is your religion, class and tribe ? 3. _____
4. What is your Village, Thana, Tehsil and District ? .. 4 { Village _____
Thana _____
Tehsil _____
District _____
5. Have you ever been imprisoned by the Civil Power .. 5. _____
6. Do you now belong to His Highness' Forces, His Majesty the King Emperors' Forces, the Indian Reserve, the Indian Territorial Force, the Forces of any Indian State or to the Nepal State Army ? .. 6. _____

(a) Enter class in which enrolled—e. g., water carrier, cook.

First Appendix - (continued).

7. Have you ever served in His Highness' Forces, His Majesty the King Emperors' Forces, the Indian Reserve, the Indian Territorial Forces, the Forces of any Indian State or in the Nepal State Army? If so, state in which and the cause of discharge (b) 7. _____

Are you in receipt of any allowance from Government? If so, on what account? .. 8. _____

9. Do you desire your former service in His Highness' Forces to reckon towards pension or gratuity when such are admissible by refunding any gratuity you may have received on or since discharge in not more than 36 monthly instalments commencing from date of re-enrolment? (c) .. 9. _____

10. Are you willing to be enrolled in the _____? (d) .. 10. _____

11. Are you willing to go wherever ordered by land, sea or air, and not to allow any caste usage to interfere with the duties for which you are enrolled .. 11. _____

-(if the enrolment is under any special orders of the Government of Jammu and Kashmir for local service, the locality will be indicated in this question after the word "ordered," e. g., in Poonch.)

12. Are you willing to be vaccinated or re-vaccinated? .. 12. _____

13. Are you willing to serve until discharged in accordance with the following conditions, provided that His Highness shall so long require your services? (e) .. 13. _____

Enrolments in ordinary cases.

When you have served for.....years from this date you will be entitled to receive your discharge within three months from the date of applying for it unless war is imminent or existing or the establishment or unit to which you belong is ten per cent. below strength, provided that, in the event of your deserting, service between the date of desertion and that of apprehension or surrender shall not reckon as service towards discharge.

(b) If so, the person should be asked to produce his discharge certificate.

(c) To be omitted in cases where no former service is declared in answer to question 7 and in cases in which, under special orders of Government of Jammu and Kashmir, former service may be reckoned for these purposes without refund of gratuity.

(d) Enter Corps or Department in which enrolled.

(e) The set of conditions which is not applicable is to be struck out, and the appropriate period of service is to be entered in the set of conditions which is applicable.

First Appendix—(continued).

Enrolments in special cases when authorised in time of War or Emergency.

When you have served for.....you will be entitled to receive your discharge with all convenient speed.

I.....do solemnly declare that the above answers made by me to the above questions are true and that I am willing to fulfil the engagements made.

Signature of Persons Enrolled.....

Signature of Witness.....

(Thumb impression if recruit is unable to write.)

CERTIFICATE OF ENROLLING OFFICER.

The conditions of service for which he is now enrolled were read and explained to the above-named person by me (or in my presence).

After having cautioned him that if he made any false answer to any of the above questions, Nos. 1 to 8, he would be liable to be punished as provided in the Jammu and Kashmir Army Regulation, I put all the above questions to him and his answer to each question has been duly entered as replied to.

I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at.....this.....day of.....19..

Signature of Enrolling officer.....

ATTESTATION.

(To be completed if the enrolled person is attested.)

CERTIFIED that the above-named person took the prescribed ^{oath} affirmation before me at.....this.....day of.....19..

Signature of Attesting Officer.....

VARIATION OF CONDITIONS AS TO DISCHARGE.

NOTE. This variation may be repeated, if necessary.

For use when the person (1) agrees to extend his period of service for such period as may be authorised by the regulations for the time being in force of the Government of Jammu and Kashmir; or

(2) is transferred with his own consent to a class, having a period of service different from that in which he was enrolled.

I agree to serve ^{for}.....until I shall have completed before being entitled to my discharge.

First Appendix—(continued).

I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time, should His Highness no longer require my services.

signed _____ in my presence at _____ this _____ day of _____
 Thumb impression affixed 19 .

Signature of Commanding Officer.

Signature
or Thumb impression
of the person.

The matter contained in the form above this has been prescribed by the Jammu and Kashmir Army Regulation. (Regulation XIV of 1989.)

DESCRIPTION ON ENLISTMENT.

(See instructions below.)

To be completed by R. O. or Asst. R. O. (a).

Apparent age _____ years Chest Measurement. { Minimum _____ inches } (b).
 Height _____ feet _____ inches. { Maximum _____ inches }

To be completed by Medical Officer.

I consider him * _____ for the Army. *insert here "fit" or "unfit".

Identification marks
or
Cause of unfitness. {

Date _____

Medical Officer.

Place _____

INSTRUCTIONS.—1. In the case of non-combatants the "corps" for the purposes of enrolment and the corps in which a recruit is enrolled will be shown, is as laid down in Rule 161 (A), Jammu and Kashmir Army Regulation Rules.

2. Previous to the medical inspection of a recruit his name, age, height and chest measurements together with the name of the corps in which he desires to be enrolled and the answers to questions 1 and 2 should be entered in the form. Subsequent to the medical inspection questions 1 to 14 with the warning as to the penalty for making a false answer to certain of them, must be put to the recruit and his answers checked or recorded before his final approval and enrolment.

3. This form will be forwarded by the Recruiting Officer to the office commanding the "corps" of the recruit concerned and will be attached to the man's sheet-roll as a permanent record.

(a) To be completed by the M. O. of the unit in the case of a recruit enrolled at head quarters.

(b) The measuring tape should be applied evenly but not tightly: its upper edge touching the lower border of the shoulder blades, and its lower edge passing just over the nipples, the arms hanging by the sides. The minimum measurement will be taken after the breath has been expelled from the chest and the maximum when the chest is fully expanded.

First Appendix—(concluded).

THIS PORTION, WHICH MAY BE DETACHED, IS TO BE COMPLETED BY THE R. O. OR ASST. R. O.

Name of recruit _____ Corps _____

* Opinion of R. O. or Asst. R. O. _____

* Insert "approved" or "rejected" and if the latter, give reason for rejection.

SUBSISTENCE, PAY, ADVANCES AND ALLOWANCES TO RECRUITS.

Date of joining recruiting party or from which subsisted.	Date of final approval or rejection by R. O. or A. R. O.	(a) Advance of pay made and (b) amount of bonus paid by R. O. or A. R. O. [N. B.—No bonus is paid in peace.]	Subsistence due to recruit.	REJECTED RECRUITS.			
				Road allowance.	Total due to recruit.	Already disbursed by recruiting party.	Balance paid before R. O. or A. R. O.
		(a)					
		(b)					

R. O.
A. R. O. for _____

This portion is for use on mobilization only in the case of direct enrolment of men not requiring previous training.

Rate of pay for which enrolled Rs. _____ per mensem.

Amount of bonus paid Rs. _____. Amount (if any) still due Rs. _____

Signature of Enrolling Officer.

SECOND APPENDIX.

FORMS OF CHARGES.

PART I.

Commencement of charge Sheet.

The accused [*Number, rank, name, corps*] or
The accused [*name*] being a person subject to the
Military Law [as an officer, as a warrant officer, as a
non-commissioned officer] under provisions of section 2
(1) (c) [and section 3 (1)] of the Jammu and Kashmir
Army Regulation

is charged with—

PART II.

Statement of offence.

OFFENCES IN RESPECT OF MILITARY SERVICE.

SECTION 25.

- (a) Shamefully { abandoning a
 { delivering up a { garrison
 { { fortress
 { { post
 { { guard
 { committed to his charge which
 { it was his duty to defend.
- (b) In presence of an enemy { shamefully casting away his { arms.
 { intentionally { words { ammunition.
 { using { [other means] { to induce a person subject to }
 { { { military law to abstain }
 { { { to discourage a person }
 { { { subject to military law } }
 { misbehaving in such manner as to show cowardice. } from acting against the enemy.
- (c) (1) { Holding correspondence with { the enemy.
 { Communicating intelligence to { a person in arms against the State.
- (2) Coming to the knowledge of a { correspondence with
 { communication of { the enemy
 { intelligence to { a person in arms
 { against the State
- (d) Treacherously making known the watchword to a person not entitled to receive it.
- (e) (1) { Assisting { money { an enemy
 { Relieving { victuals { a person in arms against the State.
 { { ammunition
- (2) Knowingly { harbouring { an enemy
 { protecting { a person in arms against the State.

Second Appendix—(continued).

SECTION 25—*contd.*

- (f) (1) { In time of war
During a military operation. }
- { intentionally occasioning
a false alarm in }
- { action
camp garrison
quarters. }
- { spreading reports calculated to create }
- { alarm
despondency. }
- (g) When a sentry { in time of
over a }
- { war
alarm
State prisoner
treasure
magazine
dockyard }
- { sleeping upon his post. }
- { quitting his post }
- { without being regularly relieved.
without leave. }
- (h) In time of action, leaving
his
- { commanding
officer
post
party }
- { to go in search of plunder. }
- (i) In time of war quitting his
- { guard
picquet
party
patrol }
- { without being regularly relieved.
without leave. }
- { using criminal force to
committing an assault
on
forcing a safeguard. }
- { a person
bringing { provisions
[other necessities] }
- { to { camp
the { quarters }
- { of His
Highness or allied
Forces. }
- (j) { In time of war
During a military operation }
- { breaking into { a house
[other place] }
- { for plunder. }
- { plundering
injuring
destroying }
- { a field.
a garden.
[other property]. }
- (k) On active service
committing an
offence against the
- { property
person }
- { of an inhabitant
or
of a resident in }
- { the country
in which he
was serving. }

Second Appendix - (continued).

SECTION 26.

- (a) { Striking
Forcing
Attempting to force } a sentry.
- (b) In time of peace, intentionally occasioning a false alarm in { camp.
garrison.
cantonment.
- (c) { When a sentry { plundering
When on guard { wilfully destroying
wilfully injuring } property placed under { his charge.
charge of his guard.
- (d) When a sentry in time of peace, { sleeping upon his post.
quitting his post } without being regularly relieved,
without leave.

MUTINY AND INSUBORDINATION.

SECTION 27.

- (a) { Beginning
Exciting
Causing
Conspiring with } { another person
other persons } to cause } a mutiny.
- (b) Being present at a mutiny and not using his utmost endeavours to suppress the same.
- (c) { Knowing
Having reason to believe in } the existence of { a mutiny,
an intention to mutiny
a conspiracy against the State, } and failing to give information thereof without delay
to his commanding or other superior officer.
- (d) { Using
Attempting to use } criminal force to { his superior officer
knowing
having reason to believe } him to be such.
Committing an assault on
- (e) Disobeying the lawful command of his superior officer

Second Appendix—(continued).

SECTION 28.

- (a) Being grossly { insubordinate } to his superior officer in the execution of his office.
- (b) Refusing to { superintend } the making of a { (field work) } ordered to be made { (in quarter) }
 { assist in } { (other military work) }
- (c) (1) Impeding { a provost-marshal } legally exercising authority { under } a provost-marshal.
 { an assistant provost-marshal }
 { an officer }
 { a non-commissioned officer }
 { a person }
- (2) Refusing when { a provost-marshal } legally exercising authority { under } a provost-marshal.
 called on to { an assistant provost-marshal }
 assist in the { an officer }
 execution of { a non-commissioned officer }
 his duty. { a person }

DESEPTION, FRAUDULENT ENROLMENT AND ABSENCE WITHOUT LEAVE.

SECTION 29.

- (1) Deserting the service.
 (2) Attempting to desert the service.

SECTION 30.

- (a) (1) Knowingly harbouring a deserter.
 (2) { Knowing } that { a person has deserted } and { failing to give information thereof without delay }
 { Having reason to believe } { a deserter has been harboured by } { to his own or some other superior officer. }
 { another person, } { failing to use his utmost endeavour to cause such }
 { } { deserter to be apprehended. }
- (b) { Knowing } { a person to be a } { the enrolment of such person. }
 { Having reason to believe } { deserter and } { attempting to procure }
- (c) Without having first obtained a { corps } enrolling himself in { the same } corps
 regular discharge from his { department } { another } department.

Second Appendix—(continued).

- (d) (1) Absenting himself without leave.
 (2) Without sufficient cause overstaying leave granted to him.
- (e) Having received information from proper authority that the { corps
 portion of a
 corps
 department } to which he belongs has been ordered on active service and failing without sufficient cause to rejoin from leave without delay.
- (f) Without sufficient cause failing to appear at { parade
 place } appointed for { exercise
 duty. }
- (g) Quitting { parade
 the line of march } without sufficient cause.
 without leave from his superior officer.
- (h) In time of peace quitting his { guard
 picquet
 patrol } without being regularly relieved
 without leave.
- (i) Being found, without proper authority, two miles or upwards from camp.
- (j) Absenting himself without proper authority from his { cantonments
 lines
 camp after retreat beating. } after tattoo.

DISGRACEFUL CONDUCT.

SECTION 31.

- (a) Dishonestly { misappropriating
 converting to his own use } { money,
 provisions,
 forage,
 arms,
 clothing,
 ammunition,
 tools,
 instruments,
 equipments,
 military stores } the property of Government entrusted to him.

Second Appendix—(continued).

(3) Intentionally { delaying his cure
aggravating his { disease.
infirmity.

(h) Voluntarily causing hurt to { himself
a person } with intent to render { himself
that person } unfit for service.

(i) (1) Committing an offence of { a cruel
an indecent } kind.
an unnatural }

(2) Attempting to commit an offence of { a cruel
an indecent } kind and doing an act towards its commission.
an unnatural }

INTOXICATION.

Intoxication.

SECTION 32.

OFFENCES IN RELATION TO PERSONS IN CUSTODY.

SECTION 33.

Releasing without proper authority { a state prisoner
Negligently suffering to escape { an enemy
a person taken in arms against the state } placed under his charge.

SECTION 34.

(a) When in command of a { guard,
picquet,
patrol, } refusing to receive a { prisoner
person } duly committed to his charge.

(b) { Releasing without proper authority { a prisoner
Negligently suffering to escape { a person } placed under his charge.

(c) When in military custody leaving such custody before being set at liberty by proper authority.

Second Appendix — (continued).

- (f) Wilfully injuring. { arms. ammunition. equipments. instruments. tools. clothing. regimental necessities. }
- { his { property belonging to { Government. { a military { mess. band. institution. { a person { subject to military law. serving with { attached to { the army. }
- (g) { Selling { a medal { granted to him. Pawning { a decoration { Destroying { Defacing { }

OFFENCES IN RELATION TO FALSE DOCUMENTS AND STATEMENTS.
SECTION 36.

- (a) Making false accusation against a person subject to military law knowing such accusation to be false.
- (b) In making a complaint under section 117 of the Jammu and Kashmir Army Regulation { knowingly making a false statement affecting the character of person subject to military law. knowingly and wilfully suppressing a material fact. }
- (c) { Obtaining { for him- { a pension and allowance { Attempt- { self { an advantage { ing to obtain { for a person. { by making a document containing a false statement. by omitting to make a { true entry. document containing a true statement. }
- { by a false statement which he { know believed { to be false. { did not believe to be true. { book. { record. }

Second Appendix—(continued).

SECTION 38.—*concl'd.*

- (c) Having been duly { sworn } before { a court-martial } making a false statement which he believed to be false. { did not believe to be true. }

MISCELLANEOUS MILITARY OFFENCES.

SECTION 39.

- (a) Behaving in a manner unbecoming the position and character of { an officer. } { a warrant officer. }
- (b) { Striking } { a person subject to Jammu and Kashmir Army Regulation } { rank. } { position. }
- (c) When in command { at a post } receiving a complaint { beaten } { maltreated } { a person, } { on the march } { that a person under } { oppressed } { a fair, } { his command has } { disturbed } { a market, } { committed } { a riot, } { a trespass, } and failing to have due reparation made to the injured person or to report the case to the proper authority.
- (d) By defiling a place { intentionally } { insulting the religion, } { wounding the } { of a person. } { religious feelings }
- (e) Attempting to commit suicide and doing an act towards the commission of the same.
- (f) Being below the rank of warrant officer and carrying when off duty a { sword } { bludgeon } { without proper authority } { in } { about } { camp. } { cantonment. } { a town. } { a bazar. } { a town. } { a bazar. }

Second Appendix—(continued).

SECTION 39—*concl.*

the enrolment of a person, {
leave of absence
promotion
an advantage
an indulgence
for a person in the service,

(g) {
Accepting
Obtaining
Agreeing to accept
Attempting to obtain
for himself
[for any other person]
a gratification as a
motive for procuring
reward

(h) Neglecting to obey {
general garrison
[other] orders.

(i) {
An act
An omission
prejudicial to good order and military discipline.

ATTEMPTS NOT BEFORE PROVIDED FOR.

SECTION 39-A.

Attempting {
to....(specify offence) attempted
to cause.....(specify offence) to
be committed
and doing an act towards
the commission of the
same.

ABETMENT.

SECTION 40.

Abetment within the meaning of the Ranbir Dand Bidhi of an offence punishable under the Jammu and Kashmir Army Regulation.

CIVIL OFFENCES.

SECTION 41.

In a place beyond
When on active service in {
the State {
Committing a civil offence, that is to say, (state the offence as described in the Ranbir Dand Bidhi or
other law in force in the State).

Second Appendix—(continued).

SECTION 42.

- (1) { Committing to commit } an offence punishable under Chapter VI of the Ranbir Dand Bidhi, that is to say (state the offence
 Attempting the commission of } described in the Code).
- (2) { Committing } against a person subject to military law.
 Attempting to commit { murder
 Abetting the commission of { culpable homicide }
- (3) { Voluntarily causing } against a person subject to military law.
 Attempting to voluntarily cause { hurt
 Abetting the voluntarily causing of { grievous hurt }

Charges for other offences referred to in section 42 will be similarly framed, the offence being stated as described in the Jammu and Kashmir State Ranbir Penal Code (sections 324, 326 to 335 or 506) and the words "against a person subject to military law" added.

Second Appendix—(concluded).

ILLUSTRATION OF CHARGE.

NOTE.—The following is an illustration of a complete charge-sheet, with statement of offence and particulars, as it would be placed before a district court martial :—

Charge-Sheet.

The accused No. 240, Sepoy Mohammad Abdullah,
Kashmir Infantry is charged with.

First
charge Section
27 (e).

Disobeying the lawful command of his superior officer at Jammu— on the 25th Magh 1988, disobeying the lawful command of his superior officer, Jamadar Futteh Khan of the same Unit, to turn out for Commanding Officer's Parade, by not turning out.

Second
charge Section
28 (a).

Being grossly insubordinate to his superior officer in the execution of his office,

in that he

at Jammu, on the 25th Magh, when confined by Jamadar Futteh Khan of the same Unit, on the first charge, said to him "I am a better man than you and will not go to the guard-room by your order", or words to that effect.

A. B.,

Commanding—Kashmir Infantry

JAMMU :
29th Magh 1988.

* To be tried by a district court-martial.

X. Y.,

Commanding Head-quarters, Jammu,
Brigade area (or staff officer, who should
sign for Commanding, Jammu Brigade
Area).

JAMMU :
1st Phagan 1988.

* When the sanction is accorded for the trial of grave offences by summary court-martial (Jammu and Kashmir Army Regulation 74 provides) similar entry should be made on the charge-sheet.

THIRD APPENDIX.

FORMS AS TO COURTS-MARTIAL.

FORMS FOR ASSEMBLY OF COURTS-MARTIAL.

No. 1—General and District.

Form of order for the Assembly of a General (or Jammu and Kashmir District) Court-Martial under the Jammu and Kashmir Army Regulation. A. F.

Orders by
Commanding the

(Place Date)

The detail of officers as mentioned below will assemble at _____ on the _____ day of _____ for the purpose of trying by a _____ court-martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

(seven officers are not, due regard being had to the public service, available).

The senior officer to sit as President.

MEMBERS.

WAITING MEMBERS.

Judge-Advocate (or Superintending officer)
is appointed Judge-Advocate
Superintending Officer.

INTERPRETER.

is appointed Interpreter.

NOTE.—These members and the waiting members may be mentioned by name, or the number and ranks and the mode of appointment may alone be named.

Third Appendix—(continued).

PROSECUTOR

* is appointed Prosecutor.

The accused will be warned, and all witnesses duly required to attend.

The proceedings (of which only one copy is required) will be forwarded to

Signed this day of

Jammu
and Kashmir
A. F.

* Here enter any order regarding Counsel—
Jammu and Kashmir Army Regulation Rules 82 and 83.

No. 2—Summary General.

(See combined form for assembly and proceedings below).

No. 3—Declaration for suspension of Rules.

Jammu
and Kashmir
A. F.

*Form of Declaration of Military Exigencies or the
Necessities of Discipline under Rule 25.*

*(the necessities of discipline).

†(or inexpedient).

‡ State the rule or rules

which cannot

be observed.

(See Rule 25)

In my opinion [*Military exigencies, namely (state them)] render it (†impossible) to observe the provisions of rules ‡ on the trial of court-martial assembled pursuant

by the order of the of

Signed at

this

day of

A. B.

(INSTRUCTION.—This declaration must be signed by the officer whose opinion is given, and will be annexed to the proceedings. It should not be included in the Convening Order but should be a separate document).

Third Appendix—(continued).

FORMS OF PROCEEDINGS OF COURTS MARTIAL.

Form of proceedings of a General (or District) Court-Martial (including some of the incidents which may occur to vary the ordinary course of procedure, with instructions for the guidance of the Court).

PROCEEDINGS OF A COURT-MARTIAL,
held at _____ on the _____ day of _____ 19____
by order of _____ Commanding _____
19____, dated the _____ day of _____

PRESIDENT.

Rank	Name	Unit
_____	_____	_____

MEMBERS.

Rank	Name	Unit
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____, Judge-Advocate, [or Superintending Officer],
[_____] Interpreter,]

Trial of *_____ at o'clock the trial commences.

(1) The order convening the Court is read (Orally translated), and a copy thereof is marked_____ signed the by President (Judge-advocate or Superintending Officer), and attached to the proceedings.

*Here insert No., Rank, Name, and Unit, and appointment (if any).

The charge-sheet and the summary of evidence are laid before the Court.

INSTRUCTION.—All documents relating to the Court, or the matters before it, which are intended to form part of the proceedings (such as an order respecting military exigencies, or a letter answering any question referred to the convening officer) at whatever period of the trial they are received should be read in open court, marked so as to identify them, signed by the president (Judge-advocate or Superintending Officer), and attached to the proceedings).

Third Appendix—(continued).

The Court satisfy themselves that
 †Here insert reason. is not available to serve owing to † †
 †Here insert Rank, Name and Unit. waiting member takes his place as a member of the court.
 The court satisfy themselves as provided by Rules
 31 and 32.

§Here state Rank and Name and Unit (if any). (2) §
 appears as prosecutor, and takes his place.

The above named, the accused, is brought before the Court.

VARIATIONS.

appears as counsel for the prosecutor.
 appears to assist (or as counsel for) the accused.

The names of the president and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?

Answer by No. accused.

(INSTRUCTION.—The questions are to be numbered throughout consecutively in a single series. The letters Q and A in the margin may stand for Question and Answer respectively).

VARIATIONS.

Challenging officers.

Answer.—I object to

Question to accused.—Do you object to any other person

(This question must be repeated until all the objections are ascertained).

*Third Appendix—(continued).**Answer.—**Question to Accused.—*What is your objection to (*the junior officer objected to*)?*Answer by accused.—*

The accused in support of his objection to
 requests permission to call etc. etc.
 is called into Court, and is questioned by the accused.

The Court is closed to consider the objection.

*Decision.—*The Court disallow the objection.

The Court is re-opened, and the above decision is made known to the accused,

*or,**Decision.—*The Court allow the objection.

The Court is re-opened and the above decision is made known to the accused.

retires.

*Fresh Member.—**

member of the Court.

takes his place as a *Insert Rank, Name and Unit.

(This only applies in the case of there being a waiting member of the Court.)

He appears to the Court to be eligible and not disqualified to serve on this court-martial.

*Question to accused.—*Do you object to be tried by (*the fresh member*)?*Answer.—*

(If he objects, objection will be dealt with in the same manner as the former objection).

Third Appendix—(continued).

Question to the accused.—what is your objection to (*the junior of the officers objected to*)?

(This objection will be dealt with in the same manner as the former objection).

The Court adjourn for the purpose of fresh members being appointed,

or,

The Court is of the opinion that in the interests of justice and for the good of the service, it is inexpedient to adjourn for the purpose of fresh members being appointed, because (*here state the reasons*).

At _____ o'clock on _____ the Court resumed their proceedings, and an order appointing fresh officers is read, marked and attached to the proceedings.

The Court satisfy themselves with respect to such fresh officers as provided by Rule 31.

(INSTRUCTION.—The procedure as to challenging fresh officers, and the procedure, if any objection is allowed will be the same as above).

The president and members of the Court, as constituted after the above proceedings, are as follows:—

PRESIDENT.

<i>Rank.</i>	<i>Name.</i>	<i>Unit.</i>
_____	_____	_____

MEMBERS.

<i>Rank.</i>	<i>Name.</i>	<i>Unit.</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Third Appendix—(continued).

The president, members, and judge-advocate (superintending officer) are duly sworn (or affirmed) also any officer under instruction).

INSTRUCTION.—(1) The witnesses if in Court, other than the prosecutor, should be ordered out of the Court at this stage of the proceedings.

(2) Also any interpreter, writer or short hand writer should be now sworn.

Do you object to _____ as interpreter?

Question to the accused.

A.

(INSTRUCTION.—In case of objection the same procedure will be followed as in the case of an objection to a member of the Court).

Do you object to _____ as writer or short-hand writer
(as the case may be)?

(INSTRUCTION.—In case of objection the same procedure will be followed as in the case of an objection to a member of the Court).

CHARGE-SHEET.

(3) The charge-sheet is signed by the president (Judge-advocate or Superintending Officer) marked and annexed to the proceedings. Charge sheet.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read? Question to the accused.

A.

(INSTRUCTION.—When there is more than one charge the foregoing question will be asked after each charge is read, the number of the charge being stated.)

(INSTRUCTION.—If the accused pleads guilty to any charge, the provisions of Rule 42 (B) must be complied with, and the fact that they have been complied with must be re-corded.)

Third Appendix—(continued).

VARIATIONS.

The accused objects to the charge.

Question to
the accused.

What is your objection?

A.

Decision.

The Court is closed to consider their decision.

The Court disallow the objection (or, the Court allow the objection, and agree to report to the convening officer)

The Court is re-opened, and the above decision is read to the accused.

The Court proceed to the trial (or adjourn)

Plea to
jurisdiction.

The accused pleads to the general jurisdiction of the Court.

Question to
the accused.

What are the grounds of your plea?

A.

Q.

Do you wish to produce any evidence in support of your pleas?

A.

Witnesses.

Witness is examined on oath (or affirmation).

(INSTRUCTION.—The examination, etc., of the witnesses called by the accused and of any witnesses called by the prosecutor in reply, will proceed directed below in paragraph (5) and (6). The prosecutor will be entitled to reply after all the evidence is given.)

Decision.

The Court is closed to consider their decision.

The Court allow (or overrule) the plea (or, resolve to refer the point to the convening authority, or decide specially that).

The Court is re-opened, and the above decision read to the accused.

The Court proceed to the trial (or adjourn).

Third Appendix—(continued).

VARIATION.

Accused, besides the plea of guilty (or, not guilty), offers a plea in bar of trial. Plea in bar of trial.

What are the grounds of your plea ?

Question to the accused.

Do you wish to produce any evidence in support of your plea ?

A.

Q.

Witness examined on oath (or affirmation).

A.

Witnesses.

[INSTRUCTION.—The examination, etc., of the witnesses called by the accused, and of any witnesses called by the prosecutor in reply, will proceed as directed below in paragraphs (5) and (6). The prosecutor will be entitled to reply after all the evidence is given.]

The Court is closed to consider their decision.

Decision.

The Court allow the plea and resolve to adjourn (or to proceed to the trial on another charge) or (the Court overrule the plea).

The Court is re-opened, and the above decision is read to the accused.

The Court adjourn (or proceed with the trial on another charge) (or proceed with the trial).

As the accused does not plead intelligibly (or refuses to plead to the above charge, or does not plead guilty to the above charge) the Court enter a plea of "Not guilty". Refusal to plead.

PROCEEDINGS ON PLEA OF GUILTY.

(4) The accused (*number* *unit* *rank*) is found guilty of the charge (all the charges) *or* is found guilty of the charge, and is found not guilty of the charge.

Third Appendix—(continued).

[INSTRUCTION.—If the trial proceeds upon any charge to which there is a plea of not guilty, the Court will not proceed upon the record of the plea of guilty until after the finding on those other charges; and in that case the Court will be re-opened and the charge on which the record is guilty must be read to the accused again.

The accused may in accordance with rule 41 (B) make any statement he wishes in reference to the charge.]

The summary of evidence is read (orally translated) marked signed by the president (judge-advocate or superintending officer), and attached to the proceedings.

[INSTRUCTION.—If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence and to enable the confirming officer to know all the circumstances connected with the case will be taken in paragraph (5). No address will be allowed.]

VARIATION.

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "guilty" alters the record and enters a plea of "not guilty".

[INSTRUCTION.—The Court will then proceed in respect of the charge as in paragraph (5).]

Question to
the accused.

Do you wish to make any statement in mitigation of punishment?

No or

The accused in mitigation of punishment says [or if the statement is in writing hands in a written statement which is read (orally translated) marked signed by the president (judge-advocate or superintending officer), and attached to the proceedings.]

INSTRUCTION.—If the statement of accused is not in writing, and delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the statement is not in writing and not delivered by the accused himself, the material portions should be recorded.

In either case any matter which is requested by or on behalf of the accused to be recorded should be recorded and care must be taken, whether request is made or not, to record every point brought forward in mitigation of punishment.

VARIATION.

The Court give permission to the accused to call witnesses to prove his above statement that (here specify the statement which is to be proved).

[INSTRUCTION.—(1) The examination, etc., of witnesses called in pursuance of this permission will proceed in the same manner as under paragraph (6).]

(2) The procedure as to sentence, recommendation to mercy, and confirmation will be as in paragraphs (11) and (13). Evidence as to character.

Do you wish to call any witnesses as to character?

Yes. (No).

Question to the accused.

A.

[INSTRUCTION.—(1) The examination, etc., of witnesses as to character will proceed as in paragraph (6).

(2) Evidence as to character and particulars of service will be taken as in paragraph (11).]

PROCEEDINGS ON PLEA OF NOT GUILTY.

(5) (If the prosecutor makes an address). The prosecutor makes the following address, (or, if the address is written, hands in a written address, which is read, (orally translated), marked _____, signed by the president (judge-advocate or superintending officer), and attached to the proceedings.)

[INSTRUCTION.—Where the address of the prosecutor is not in writing, the Court should record so much as appears to them material, and so much as the prosecutor requires to be recorded].

The prosecutor proceeds to call witnesses.

_____ being duly sworn (affirmed) is examined by the prosecutor. First witness for prosecution.

_____ Cross-examined by the accused.

_____ Re-examined by the Prosecutor.

* Here insert his number, rank, name and unit and appointment (if any), or other description.

Third Appendix — (continued).

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded].

The witness withdraws.

VARIATION.

The accused declines to cross-examine this witness.

[INSTRUCTION.—In every case where the accused does not cross-examine a witness for the prosecution this statement is to be made, in order that it may appear on the face of the proceedings that he has had the opportunity given him of cross-examination.]

The Court, at the request of the accused, allow the cross-examination of the witness to be postponed.

The accused (or the prosecutor) objects to the following question :—

The Court is closed to consider their decision.

The Court overrule (or allow) the objection, and the Court is re-opened and the decision announced.

The witness, on his evidence being read to him, makes the following explanation or alteration :—

Examined by the prosecutor as to the above explanation or alteration.

Third Appendix—(continued).

Examined by the accused as to the above explanation or alteration.

The prosecutor and accused decline to examine him respecting the above explanation or alteration.

being duly sworn, (affirmed), is examined by the prosecutor. Second witness for prosecution.

(The examination, etc, of this and every other witness proceeds as in the case of the first witness).

At _____ o'clock the Court adjourns until _____ o'clock
on the _____ Adjournment.

On the _____ of _____ 19 _____
at _____ o'clock, the Court re-assemble, pursuant to, Second day.
adjournment, present the same members as on the
of _____

VARIATION.

[INSTRUCTIONS.—(1) If a member is absent, and his absence will reduce the Court below the legal minimum and it appears to the members present that the absent member cannot attend within a reasonable time, the president or senior member present will thereupon report the case to the convening officer.

(2) If the judge-advocate or superintending officer is absent, and cannot attend within a reasonable time, the Court will adjourn, and the president will thereupon report the case to the convening authority (See Rule 90)].

(Rank Name Unit) being absent, Absent member.

(THE ABSENCE IS ACCOUNTED FOR).

A medical certificate (or letter, or as the case may be) is produced, read, marked, and attached to the proceedings.

Third Appendix—(continued).

The Court adjourn until

or,

There being present (not less than the legal minimum) members, the trial is proceeded with.

New Judge.
Advocate.

An order bearing date appointing , to act as judge-advocate in the place of , who (Judge-advocate) is read marked, signed by the president and attached to the proceedings, and the new judge-advocate duly sworn (affirmed).

The trial is proceeded with.

[INSTRUCTIONS.—(1) If the Court, in consequence of the adjournment having been prolonged by the senior officer on the spot, or otherwise, do not meet on the day to which they previously adjourned, or if the adjournment was until further orders, the words, "pursuant to adjournment" will be omitted from the above form, and the cause of their meeting at the above time will be entered in the proceedings.

(2) If the place of meeting has been altered by orders or otherwise, the place of meeting and the reason for meeting at that place will be entered in the proceedings].

Examination (cross-examination) of continued.

The prosecution is closed.

DEFENCE.

Question to
accused.

Do you intend to call any witness in your defence?

A.

Yes (No).

Q.

Is he a witness as to character only?

A.

Third Appendix—(continued).

VARIATION.

(If the accused is defended by counsel or by an officer having the rights of counsel.)

Do you wish to make any statement in addition to the address made by your counsel (or _____)?

(6) INSTRUCTIONS.—(1) If the accused calls no witnesses to the facts of the case, adopt this and omit (7).

(2) If the accused is defended by counsel or an officer having the rights of counsel and does not wish to make a statement in addition to the address of such counsel or officer, adopt this and omit (7).

The prosecutor addresses the Court upon the evidence for the prosecution as follows [*or, if the address is written,* hands in a written address, which is read (orally translated) marked _____, signed by the president (judge-advocate or superintending officer) and attached to the proceedings.]

(INSTRUCTION.—Where the address of the prosecutor is not in writing the Court should record so much as appears to them material and so much as the prosecutor requires to be recorded.)

Have you anything to say in your defence?

Question to
accused.

VARIATIONS.

The Court, at the request of the accused, adjourn until _____ to enable him to prepare his defence.

The accused in his defence says _____ (or hands in a written address, which is read (orally translated), marked _____, signed by the president (Judge-advocate or superintending officer) and attached to the proceedings.

INSTRUCTIONS.—If the address of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the address is not in writing and not delivered by the accused himself the material portion should be recorded.

In either case any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken, whether a request is made or not, to record every point brought forward in the defence or in mitigation of punishment.

Third Appendix — (continued).

First witness as to character.

The accused calls the following witnesses as to character*
is duly sworn (affirmed).

*Here insert his number, rank, name, and unit and appointment (if any), or other description.

Examined by the Accused.

Cross-examined by the Prosecutor.

Re-examined by the Accused.

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded.]

The witness withdraws.

VARIATION.

The prosecutor declines to cross-examine this witness.

The witness, on his evidence being read to him, makes

Third Appendix—(continued).

the following explanation or alteration.

Examined by the accused as to the above explanation or alteration.

Examined by the prosecutor as to the above explanation or alteration.

The accused and prosecutor decline to examine him respecting the above explanation or alteration.

INSTRUCTION.—(7) If the the accused calls witnesses to the facts of the case or if an accused person, being defended by counsel or by an officer having the rights of counsel, wishes to make a statement in addition to the address by such counsel or officer, then omit paragraph (6), and adopt (7).

Have you anyting to say in your defence ?

Question to
accused.

VARIATION.

The Court, at the request of the accused, adjourn until to enable him to prepare his defence.

The accused in his defence says (or if his address is in writing, hands in a written address, which is read (orally translated) marked signed by the president (judge-advocate or superintending officer) and attached to the proceedings).

(INSTRUCTIONS.—(1) If the defence of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words,

(2) If the address is not in writing and is not delivered by the accused himself, the material portions should be recorded,

(3) In either case, any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken whether a request is made or not, to record every point brought forward in the defence or in mitigation of punishment).

Third Appendix—(continued).

is duly sworn (affirmed).

* Here insert *
his number,
rank, name,
and unit and
appointment
(if any) or
other descrip-
tion.

Examined by the Accused.

Cross-examined by the Prosecutor.

Re-examined by the Accused.

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been
complied with should be recorded]

The witness withdraws.

VARIATIONS.

The prosecutor declines to cross-examine this
witness.

Third Appendix — (continued).

The witness, on his evidence being read to him, makes the following explanation or alteration.

Examined by the accused as to the above explanation or alteration.

Examined by the prosecutor as to the above explanation or alteration.

The accused and prosecutor decline to examine him respecting such explanation or alteration.

(Where the accused is defended by counsel or, an officer having the rights of counsel.) The accused makes the following statement in addition to the address by his counsel (or). (a)

The prosecutor (by leave of the Court) calls witnesses in reply.

The accused makes the following address [or, if the address is in writing, hands in a written address, which is read (orally translated) marked by the president (judge-advocate or superintending officer) and attached to the proceedings].

(a) The accused must make his statement at the close of the case for the prosecution and before the address by his Council. See Rule 88.

The prosecutor makes the following reply [or, if the reply is in writing, hands in a written reply, which is read (orally translated) marked signed by the president (judge-advocate or superintending officer) and attached to the proceedings],

or,

The prosecutor declines to make a reply.

Third Appendix—(continued).

[INSTRUCTION,—Where the reply of the prosecutor is not in writing, the court should record so much as appears to them material and so much as the prosecutor requires to be recorded.

If the address of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the address is not in writing and not delivered by the accused himself, the material portions should be recorded.

In either case, any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken whether request is made or not to record every point brought forward in the defence or in mitigation of punishment.]

VARIATION.

The Court, at the request of the accused, adjourn until
address. to enable the accused to prepare his

The Court, at the request of the prosecutor, adjourn until
his reply. to enable the prosecutor to prepare

(8) The Judge-advocate hands in a written summing up, which is read, (orally translated) marked signed by the president, and attached to the proceedings

VARIATIONS.

The Judge-advocate and the Court think a summing up unnecessary.

or

The Court, at the request of the Judge-advocate adjourn until—to enable him to prepare his summing up

FINDING.

Finding.
Not guilty.

(9) The court is closed for the consideration of finding.

Third Appendix--(continued).

The Court find that the accused (No. _____
Rank _____ *Name* _____ *Unit* _____)
 is not guilty of the _____ charge
 (and honourably acquit him of the same), but is guilty
 of the _____

or,

is guilty of the charge (all the charges);

Guilty!

or,

is guilty of the _____ charge, and guilty of the
 charge with the exception of the words (or with
 exception that)

or,

is not guilty of desertion, but is guilty of absence without
 leave from the _____ to the _____, being
 a period of _____ days;

[INSTRUCTION—Any special finding allowed by section 86 of the
 Jammu and Kashmir Army Regulation may be expressed in this form;

or

find that the accused did (Here set out such particulars
 in any charge as the Court find to be proved), but the ^{Special}
 Court doubt whether such facts constitute in law the ^{finding.}
 offence stated in the charge, or in the _____
 charge, or in the _____ charge, and therefore they find
 him guilty of the offence in such one of those charges as
 the facts in law constitute:

or,

adjourn for the purpose of consulting the convening (or
 as the case may be, confirming) officer;

On re-assembly on the _____

, and on reading the opinion of _____

day of _____

Third Appendix—(continued).

which is marked _____ and annexed to the proceedings, find that the accused etc.

PROCEEDINGS ON ACQUITTAL OF ALL THE CHARGES.

Acquittal.

(10) The Court find that the accused (No. _____)
Rank _____ *Name* _____ *Unit* _____)
 is not guilty of the charge (or all the charges):

or,

is not guilty of the charge (or all the charges) and
 honourably acquit him of the same.

Signed at _____, this day _____ of _____

*Signature**Signature*

President.

Judge-advocate
 (or Superintending Officer).

Insanity.

The Court find that the accused (No. _____)
Rank _____ *Name* _____ *Unit* _____)
 is of unsound mind and consequently incapable of making
 his defence,

or,

Committed the act (acts) alleged as constituting the
 offence (offences specified in the charge (charges) but
 was by reason of unsoundness of mind incapable
 knowing the nature of that act (those acts) (or but was
 by reason of unsoundness of mind incapable of knowing
 that, that act was wrong (those acts were wrong)
 contrary to law).

Third Appendix—(continued).

Signed at , this day of

(*Signature*).

(*Signature*).

Judge-advocate.
(or Superintending officer).

President.

Confirmed

At this day of

(*Signature of Confirming Authority.*)

PROCEEDINGS ON CONVICTION.

Before sentence.

(11) The Court being re-opened the accused is again brought before it, is duly sworn (or affirmed).

Question.—What record have you to produce in ^{Evidence} proof of former convictions against accused and of his ^{of character} character? _{etc.}

Answer by witness.—I produce a statement certified under the hand of the officer having custody of the regimental (*or other official*) records.

The statement is read, (orally translated) marked , signed by the president (judge-advocate or superintending officer), and attached to the proceedings.

Q. Is the accused the person named in the statement you have heard read?

A.

Q. Have you compared the contents of the above statement with the regimental (*or other official*) records?

A.

Q.—Are they true extracts from the Regimental (*or other official*) records and is the statement of entries in

Third Appendix—(continued).

the defaulter sheet a fair and true summary of those entries?

A.

Cross-examined by the Accused.

Re-examined.

or,

The accused declines to cross examine this witness.

[INSTRUCTION.—Any further question will be put and any evidence produced which the Court require as to any point respecting the character and service of the accused on which the Court desire to have information for the purpose of their sentence.

At the request of the accused, or by the direction of the Court, the regimental or other official books, or a certified copy of the material entries therein must be produced for the purpose of comparison with the statement.

The accused is entitled to call the attention of the Court to any entries in the regimental or other official books, or in the certified copy above mentioned, and to show that they are inconsistent with the statement.

When all the evidence on the above matters has been given the accused may address the Court thereon].

Question to accused.

Do you wish to address the Court?

Answer.

The Court is closed for the consideration of the sentence.

Third Appendix—(continued).

SENTENCE.

The Court sentence the accused (*No*_____ *Sentence.*
*Rank*_____ *Name*_____ *Unit*)._____

(*a*) to suffer death by being hanged by the neck *Death.*
 until he be dead (*or* to suffer death by
 being shot to death).

(*b*) to suffer imprisonment for life.

Imprison-
 ment for life
 R i g o r o u s
 (Simple im-
 prisonment
 solitary con-
 finement).

(*c*) to suffer rigorous (simple) imprisonment for
 years (months *or* days) (of which
 shall be in solitary confinement).

(*d*) to be dismissed from the service.

Dismissal,

(*e*) to be suspended from rank, pay and allowances
 for a period of

Suspension.

(*f*) to be reduced to a lower grade (*or* class) of
 warrant officer, that is to say, to

Reduction.

or,

to be reduced to the rank of (or to the
 ranks).

(*g*) to take rank and precedence as if his appoint-
 ment to the rank (grade *or* class) of
 bore date

Forfeiture
 of seniority.

(*h*) to forfeit past service for the purpose
 of ; or to forfeit
 good conduct (service) badges with the
 pay attached thereto : or

Forfeitures.

to forfeit the (*state medal, clasp and de-
 coration, or any of them, which is to be
 forfeited*) with any annuity or gratuity
 attached thereto : or

to forfeit all arrears of pay and allowances
 and other public money due to him at the
 time of his dismissal : or

Third Appendix—(continued).

to forfeit pay and allowances for a period
of ; or

Stoppages.

to be put under stoppages of pay and allowances until he has made good the value of the following articles, *viz.*
(state the articles and the value of each)
or until he shall have made good the sum of in respect of
(state the circumstances in respect of which the same is awarded).

Field punishment.

(i) to suffer field punishment No. for a period of

Reprimand or severe reprimand.

(j) to be reprimanded (or severely reprimanded).

RECOMMENDATION TO MERCY.

The Court recommend the accused to mercy on the ground that

SIGNATURE.

Signed at , this day of 19.

(Signature).

(Signature).

Judge-Advocate.
(or Superintending Officer),

President.

Revision.

(12)

At

REVISION.

at

, on the day of
o'clock, the Court re-
for the purpose

assemble by order of
of re-considering their

Present, the same members as on the

VARIATION.

(INSTRUCTION.—If a member is absent and the absence will reduce the Court below the required minimum, and it appears to the members present

Third Appendix—(continued).

that such absent member cannot attend within a reasonable time, the president, or, in his absence, the senior member present shall thereupon report the case to the convening officer.)

(*Rank, name, unit*) being absent.

A b s e n t
member.

(*The absence is accounted for*).

A medical certificate (or letter, or *as the case may be*) is produced, read, marked and attached to the proceedings.

There being present (not less than the required minimum) members the Court proceeds.

The letter (order or memorandum) directing the re-assembly of the Court for the revision, and giving the reasons of the confirming authority for requiring a revision of the finding (finding and sentence) (or sentence) is read, marked, signed by the president (judge-advocate or superintending officer) and attached to the proceedings.

[INSTRUCTION.—If the confirming authority so orders, additional evidence may be taken on revision such evidence will be taken as in paragraph (5) and (6).]

The Court having attentively considered the observations of the confirming authority, and the whole of the proceedings; Revised finding.

(a) do now revoke their finding and sentence, and find and sentence the accused to

or,

(b) do now revoke their sentence, and now Sentence, sentence the accused, etc, etc.

or,

(c) do now respectfully adhere to their sentence.

Third Appendix—(continued).

(or finding and sentence).

Signed at , this day of 19 .

Signature

Signature.

President.

Judge-Advocate.

(or Superintending Officer).

CONFIRMATION.

Confirma-
tion.

(13) Confirmed,

or,

Confirmed. I direct that the sentence of rigorous imprisonment shall be carried out by confinement in military custody,

or,

I vary the sentence so that it shall be as follows
, and confirm the finding and the sentence as
so varied,

or,

I confirm the finding and sentence of the Court, but
mitigate, (remit, or, commute),

or,

(Where it is necessary to confirm the special finding on several alternative charges.)

I confirm the finding on charges, and I confirm the special finding relating to the and charges, and declare that that finding amounts to a finding of guilty on the charge, and of not guilty on the and charges.

I confirm the sentence but mitigate (remit, or commute):

Third Appendix—(continued).

or,

(Where the confirming officer desires partly to reserve his confirmation).

I confirm the finding of the Court on the
and charges and reserve for confirmation by
superior authority the finding on the and
charges, and the sentence:

or,

I confirm the findings of the Court, but reserve the
sentence for confirmation by superior authority:

or,

I confirm the findings of the Court, and the sentence
of the Court as to and reserve the sentence
so far as it for confirmation by superior
authority;

or,

(Where the finding is not confirmed).

Not confirmed (the reasons for non-confirmation
may be stated.)

Signed at , this day
of 19 .

Signature of confirming Authority).

[INSTRUCTION.—Any remarks of the confirming authority should be
separate from and form no part of the proceedings].

[Where the declaration respecting a special finding on alternative charges
is added subsequently to the confirmation (Rule 60.)]

I declare that the special finding relating to the
and charges amounts to a

Third Appendix—(continued).

finding of guilty on the
guilty on the

and

charge, and of not
charges.

Signed at
of

19 .

, this

day

(Signature of Authority).

Form of Proceedings of a Summary Court martial.

Proceedings of a Summary Court-martial held
at on the day of 19
by

Commanding the for the trial of all
such accused persons as he may duly have brought before
him.

PRESENT.

Commanding the

Attending the trial.

Interpreter.

(1) The Officers assemble at the
and the trial commences at o'clock M.
The accused No.

of the

is brought ("called" if a non-commissioned officer) into
Court.

, the Court is duly sworn

(affirmed).

is duly sworn (affirmed) as Interpreter.

All witnesses are directed to withdraw from the
Court.

Third Appendix—(continued).

The Charge-sheet is read, (translated) and explained to the accused, marked _____, signed by the Court and attached to the proceedings.

[INSTRUCTION.—The sanction of superior authority for trial by summary Court-martial should be entered, with the date and signature of the staff officer, at the foot of the charge-sheet when such sanction is necessary].

ARRAIGNMENT.

By the Court—How say you _____ are you guilty, Question to
accused.
or not guilty of the _____ charge preferred against

you?

A.

Are you guilty or not guilty of the _____ charge? Question.

[INSTRUCTION.—If the accused pleads "Guilty" adopt (2) and omit (3), (4) and (5). If he pleads "Not Guilty" adopt (3) and (4) or (5) and omit (2). If he pleads "Guilty" to some charge or charges and "Not Guilty" to others (not alternative) adopt (3), (4) or (5) and (2).]

PROCEEDINGS ON PLEA OF GUILTY.

(2) The accused (number _____ rank _____
name _____ unit _____) is found guilty
of the charge (all the charges) _____
or,
is found guilty of the _____ charge, and is
found not guilty of the _____ charge.

[INSTRUCTION.—If the trial proceeds upon any charge, to which there is a plea of not guilty, the Court will not proceed upon the record of the plea of guilty until after the finding on those other charges; and in that case the charge on which the record, is guilty must be read to the accused again.)

The summary of evidence is read (translated), explained, marked _____, signed by the Court and attached to the proceedings.

Third Appendix—(continued).

(INSTRUCTION—If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence and to enable the reviewing officer to know all the circumstances connected with the case will be taken as in paragraph (3). No address will be allowed].

VARIATION.

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "guilty" alters the record and enters a plea of "not guilty".

[INSTRUCTION—The Court will then proceed in respect of this charge as in paragraph (3).]

Question to accused. Do you wish to make any statement in reference to the charge or in mitigation of punishment?

A. No; or

The accused says

Question to accused.

Do you wish to call any witnesses as to character?

A. Yes. (No).

INSTRUCTION—(1) The examination of witnesses as to character will proceed as in paragraph (3).

(2) Evidence as to character and particulars of service will be taken as in paragraph (6).]

Prosecution 1st witness.

PROCEEDINGS ON PLEA OF NOT GUILTY.

Prosecution.

being sworn (affirmed)

Religion to be recorded, Hindu, (Muselman, Sikh) Sikh should be sworn.

(3) is examined by the court.

Third Appendix—(continued)

Cross-examined by the accused.

A.

Re-examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded.]

The witness withdraws.

VARIATIONS.

The accused declines to cross-examine this witness.

[INSTRUCTION.—In every case where the accused does not cross examine a witness for the prosecution this statement is to be made, in order that it may appear on the face of the proceedings that he has had the opportunity given him of cross-examination.]

The Court, at the request of the accused, allow the cross-examination of the witness to be postponed.

The prosecution is closed.

Do you intend to call any witnesses in your defence? Question to accused.

Yes

A.

DEFENCE.

The accused is called upon for his defence and states— Defence.

(affirmed) is examined by the accused, being duly sworn Defence 1st witness.

THE JAMMU AND KASHMIR
Third Appendix—(continued).

Cross-examined by the Court.

Re-examined by the accused.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) been complied with should be recorded].

The Defence is closed.

REPLY.

Reply 1st
witness.

is examined by the Court. , being duly sworn (affirmed)

Q.

A.

VERDICT OF THE COURT.

Finding
not guilty.

(4) I am of opinion on the evidence before me that
tha accused No. , is not guilty of the
the charge (or all the charges) and honourably acquit him of
the same.

The verdict is read out and the accused released
He is to return to his duty.

Signed at

this
19 .

day

Commanding the
holding the trial.

The trial closes at

o'clock M.

Guilty.

(5) I am of opinion on the evidence before
that the accused No. of the

Third Appendix—(continued).

is not guilty of the charge (and honourably acquit him of the same) but is guilty of the

or,

is guilty of the charge (all the charges).

PROCEEDINGS BEFORE SENTENCE.

(6) The following Minutes by the Court are read and explained.

[INSTRUCTION.—If the Court does not record the accused person's convictions and character of its own knowledge, evidence as to these matters will be taken as in paragraph II of the Form of Proceedings for a General or District Court-martial.]

It is within my own knowledge, from the records of the _____ that the accused has been previously convicted by Court-martial or Criminal Court (see Certificate annexed).

That the following is a fair and true summary of the entries in his defaulter sheet exclusive of convictions by a Court-martial or a Criminal Court.

within last
12 months.

since
Enrolment.

For

times

times

For

times

times

That he is at present undergoing

sentence.

That, irrespectively of this trial, his general character has been _____

That his age is _____
his service is _____
and his rank is _____
that he has been in arrest (confinement) for _____

days.

That he is in possession of the following military decorations and rewards :—

Third Appendix—(continued).

(Any recognised acts of gallantry or distinguished conduct should also be entered here.)

SENTENCE BY THE COURT.

Sentence. Taking all these matters into consideration, I now sentence the accused No. of the

Rigorous
(simple)
imprison-
ment ——— ,
and solitary
confinement.

(a) To suffer rigorous (simple) imprisonment for [of which shall be in solitary confinement] [and I direct that the sentence of rigorous imprisonment shall be carried out by confinement in military custody.)

Dismissal.

(b) to be dismissed from the service.

Reduction.

(c) to be reduced to the rank of (or to the ranks).

Forfeiture
of seniority.

(d) to take rank and precedence as if his appointment to the rank of bore date.

Forfeitures.

(e) to forfeit past service for the purpose of ; or

to forfeit good conduct (service) badges, with the pay attached thereto ; or

to forfeit the (*state medal, clasp and decoration, or any of them which is to be forfeited*) with any annuity or gratuity attached thereto ; or

to forfeit all arrears of pay and allowances and other public money due to him at the time of his dismissal ; or

to forfeit pay and allowances for a period of ; or

Stoppages.

(f) to be put under stoppages of pay and allowances until he has made good the value of

Third Appendix—(continued).

the following articles, *viz.*

(*State the articles and the value of each*).

(or until he shall have made good the sum of _____ in respect of

(*state the circumstances in respect of which the same is awarded*).]

(g) to suffer field punishment No. _____
period of _____

for a ^{Field} punishment.

Signed at _____, this _____ day
of _____, 19 _____.

Commanding the
holding the trial.

The trial closes at
o'clock _____ M.

REMARKS BY REVIEWING OFFICER.

(*Jammu and Kashmir Army Regulation Section 102*)

Form of Summons.

*Form of Summons to a witness summoned under section
84 of the Jammu and Kashmir Army Regulation.*

To

Whereas a _____ Court-martial has
been ordered to assemble at _____ on the _____ day of
19 _____, for the trial of _____, of the _____ B.
unit, I do hereby summon and require you A. _____
to attend, as a witness, the sitting of the said Court
at _____ on the _____ day of
_____ at _____ o'clock in the forenoon
and to bring with you the documents hereinafter men-
tioned, namely _____), and so to attend from day
to day until you shall be duly discharged, whereof you
shall fail at your peril.

200
Third Appendix—(continued).

Given under my hand at _____ on the
day of _____ 19 .

(Signature.)

Convening Officer (or Judge-Advocate or President of the Court or Commanding Officer of the Accused).

**Form for Assembly and Proceedings of a Summary
General Court-Martial.**

A.—ORDER CONVENING THE COURT.

At (place) _____ this _____ day of _____ 19

**(1) Beginning of Form in cases falling under
clause (a) of section 62 of the Jammu and
Kashmir Army Regulation.*

Whereas it appears to me
an officer empowered in this behalf by an order of the
His Highness the Maharaja Bahadur that the person
Commander-in-Chief persons
named in the annexed schedule, and being subject to the
Military law, has committed the offence in the said
have offences
schedule mentioned;

**(2) Beginning of Form in cases falling under
clause (b) of section 62 of the Jammu and
Kashmir Army Regulation.*

Whereas it appears to me the
an
officer commanding the forces in the field
empowered in this behalf by the Officer Commanding the
forces in the field on active service that the person named
in the annexed schedule, and being subject to the Military
persons

* Only one of these will be used, the two which are inapplicable being struck out.

Third Appendix—(continued).

law, $\frac{\text{has}}{\text{have}}$ committed the $\frac{\text{offence}}{\text{offences}}$ in the said schedule mentioned;

* (3) *Beginning of Form in cases falling under clause (c) of section 62 of the Jammu and Kashmir Army Regulation.*

Whereas it appears to me an
 officer now in command of , being a
 detached portion of His Highness' Troops upon active
 service that the $\frac{\text{person}}{\text{persons}}$ named in the annexed schedule,
 and being subject to the Military law, $\frac{\text{has}}{\text{have}}$ committed
 the $\frac{\text{offence}}{\text{offences}}$ in the said schedule mentioned; and where-
 as I am of opinion that it is not practicable with due
 regard to discipline and the exigencies of the service that
 the said $\frac{\text{offence}}{\text{offences}}$ should be tried by an ordinary general
 court-martial;

(4) *End of Form applicable to all cases.*

I hereby convene a summary general Court-Martial
 to try the said $\frac{\text{person}}{\text{persons}}$ and to consist of

Ranks, names and corps of members.

(Here enter the special order (if any) under Rule 146 and any order under section 98 (1) (c) of the Jammu and Kashmir Army Regulation.

Signature of convening officer.

* Only one of these will be used, the two which are inapplicable being struck out.

Third Appendix—(continued).

B. — CERTIFICATE OF PRESIDENT AS TO PROCEEDINGS.

I certify that the above Court assembled on the
day of 19 , and duly
tried the persons
person named in the said schedule, and that
the plea, finding and sentence in the case of such
each such
person were as stated in the third and fourth columns of
that schedule.

I further certify that the members of the Court, the witnesses and the interpreter were duly sworn or affirmed.

Signed at (place) this day of 19 .

(Signature of President).

C.—CONFIRMATION.

(In cases in which confirmation is required by section 98 of the Jammu and Kashmir Army Regulation).

I have dealt with the finding and sentence in the
manner stated in the last column of the said schedule
and subject to what I have there stated I hereby confirm
the above finding and sentence
findings sentences.

Signed at (place) this day of 19

Signature of confirming officer.

Third Appendix—(continued).

Date _____

19 .

SCHEDULE.

Name of alleged offender.*	Offence charged.	Plea.	Finding, and if convicted, sentence.†	How dealt with by confirming officer.‡
1	2	3	4	5
Ram Bux (Bannia)	Theft of Government property.	Guilty.	Guilty, Rigorous imprisonment for _____.	Confirmed. I remit A _____ B _____
262 Sepoy Jhanda Singh, Regiment.	Breaking into house for plunder.	Not Guilty.	Guilty, Field punishment No. 1, for two months.	
504 Sowar Hussain Khan Regiment.	Sleeping on post in time of war.	Not Guilty.	Guilty-Death by being shot to death. Recommended to mercy.	Confirmed, but commuted to field punishment No. 1 for three months. A _____ B _____
Person accompanying force (name unknown) white jacket and trousers, scar on right cheek.	Impeding provost-marshal.	Not Guilty.	Not Guilty.	Confirmed. A _____ B _____
Sepoy in uniform of unit (name unknown).	Civil offence Rape.	Not Guilty.	Guilty. Imprisonment for life.	Confirmed. A _____ B _____

*If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.

†Recommendation to mercy to be inserted in this column

‡ If confirmation is not required this column should be left blank. See Jammu and Kashmir Army Regulation, Section 98.

A _____ B _____

C _____ D _____

President.

E _____ F _____

Superintending Officer (if any).

FOURTH APPENDIX.

WARRANTS UNDER SECTIONS 107 AND 109 OF
THE JAMMU AND KASHMIR ARMY
REGULATION.

FORM A.

Warrant of commitment for use when a prisoner is sentenced to imprisonment for life (Jammu and Kashmir Army Regulation Section 107).

*To the Superintendent
of the (a)*

Prison.

Whereas at a (b) Court-martial held at
on the day of 19 (Number,
Rank, Name) of the Regiment
was convicted of (the offence to be briefly stated here as
"desertion" corresponding with the enemy", "disobedience
of lawful command" or as the case may be).

And whereas the said (b) Court-martial on the
day of , 19 passed the following
sentence upon the said (Name); that is to say :—

(Sentence to be entered in full, but without signature.)

And whereas the said sentence has been duly confirmed by (c) as required by law. (d)

This is to require and authorise you to receive the said (Name) into your custody in the said prison as by law is required, together with this warrant, until he shall be delivered over by you with the said warrant to the proper authority and custody for the purpose of undergoing the aforesaid sentence of imprisonment for life. The aforesaid sentence has effect from the (e)

Given under my hand at
day of , 19 .

this the

Signature (f)

- (a) Enter name of civil prison.
(b) General, or summary General.
(c) Name and description of confirming authority.
(d) Add if necessary "with a remission of
(e) Enter date on which the original sentence was signed.
(f) Signature of Commanding Officer of prisoner or other prescribed officer—See Rule 152.

Fourth Appendix—(continued).

FORM B

Warrant of commitment for use when a prisnor is sentenced to rigorous imprisonment which is to be undergone in a civil prison (Jammu and Kashmir Army Regulation Section 107).

To the Superintendent

of the (a)

Prison

Whereas at a (b) Court-martial held at
on the day of , 19 (Number,
Rank, Name) of the unit
was duly convicted of (the offence to be briefly stated
here, as "deserter" "theft" receiving stolen goods"
"fraud" "disobedience of lawful command" or as the
case may be).

And whereas the said (b) Court-martial, on
the day of , 19 passed
the following sentence upon the said (Name); that is to
say :—

(Sentence to be entered in full, but without signature).

And whereas the said sentence
(c) has been duly confirmed by (d) as required by law. (e)
is by law valid without confirmation.

This is to require and authorise you to receive the
said (Name) into your custody together with this warrant,
and there carry the aforesaid sentence of rigorous imprisonment into execution according to law. The sentence
has effect from the (f).

Given under my hand at
, 19

this the day of

Signature. (g)

(a) Enter name of Civil Prison.

(b) General, District, Summary General or Summary.

(c) Strike out inapplicable words.

(d) Name and description of confirming authority.

(e) Add if necessary "with a remission of

(f) Enter date on which the original sentence was signed.

(g) Signature of Commanding Officer of prisoner or other officer—
See Rule 152.

Fourth Appendix—(continued).

FORM C.

Warrant for use when a prisoner is pardoned or his trial set aside, or when the whole sentence, or the unexpired portion thereof, is remitted (Jammu and Kashmir Army Regulation, Section 109).

To the Superintendent

of the (a)

Prison.

Whereas (Number, Rank, Name,) (late) of the unit is confined in the (a) prison under a warrant issued by (b) in pursuance of a sentence of (c) passed upon him by a (d) Court-martial held at (e) on ; and whereas (e) has in the exercise of the powers conferred upon him by the Jammu and Kashmir Army Regulation passed the following order regarding the aforesaid sentence, that is to say :—

(f) _____

This is to require and authorise you to forthwith discharge the said (Name) from your custody unless he is liable to be detained for some other cause ; and for your so discharging him this shall be your sufficient warrant.

Given under my hand at _____ this the
day of _____, 19 _____.

Signature (g)

- (a) Enter name of civil prison.
(b) Enter name or designation of officer who signed original warrant.
(c) Enter original sentence (if this was reduced by the Commanding Officer or other superior authority the sentence should be entered thus :—
"2 years' rigorous imprisonment reduced by Confirming Officer to 1 year".
(d) General, District, Summary General or Summary.
(e) Name and designation of authority pardoning prisoner, mitigating sentence or setting aside trial.
(f) Order to be set out in full.
(g) Signature of prescribed officer—See Rule 153.

Fourth Appendix—(continued).

FORM E.

Warrant for use when a sentence of rigorous imprisonment is reduced by superior authority or when one of imprisonment for life is reduced to one of rigorous imprisonment (Jammu and Kashmir Army Regulation Section 109).

*To the Superintendent
of the (a)*

prison.

Whereas (Number, Rank, Name) (late) of the unit is confined in the (a) prison under a warrant issued by (b) in pursuance of a sentence of (c) passed upon him by a (d) Court-martial held at on , and whereas (e) has, in the exercise of the powers conferred upon him by the Jammu and Kashmir Army Regulation, passed the following order regarding the aforesaid sentence; that is to say:—

(f) _____

This is to require and authorise you to keep the said (Name) in your custody together with this warrant, and there to carry into execution the punishment of Rigorous Imprisonment under the said order according to law. And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof this warrant is issued. The period of such rigorous imprisonment will reckon from the (g)

Given under my hand at this the
day of 19 .

Signature (h).

- (a) Enter name of Civil prison.
- (b) Enter name of designation of officer who signed original warrant.
- (c) Enter original sentence (if this was reduced by the Confirming Officer or other superior authority the sentence should be entered thus:—
“ 2 years' rigorous imprisonment reduced by Confirming Officer to 1 year ”)
- (d) General, District, Summary General or Summary.
- (e) Name and designation of authority varying the sentence.
- (f) Order to be set out in full.
- (g) Enter date on which original sentence was signed.
- (h) Signature of prescribed officer—See Rule 153.

Fourth Appendix.

FORM F.

Warrant for use when prisoner is to be delivered into military custody (Jammu and Kashmir Army Regulation Section 109).

To the Superintendent
of the (a)

prison.

Whereas (Number, Rank, Name) (late) of the
unit is confined in the (a) prison
under a warrant issued by (b) in pursuance
of a sentence of (c) passed upon him by a
(d) ; Court-martial held at on
; and whereas (e) has in the exercise
of the powers conferred upon him by the Jammu and
Kashmir Army Regulation passed the following order
regarding the aforesaid sentence, that is to say:—

(f)

This is to require and authorise you to forthwith deliver
the said (Name) to the officer or non-commissioned
officer bringing this warrant.

Given under my hand at
day of

19 .

this the

Signature (g).

-
- (a) Enter name of civil prison.
(b) Enter name or designation of officer who signed original warrant.
(c) Enter original sentence (if this was reduced by the Confirming Officer or other superior authority the sentence should be entered thus:—
("2 years' rigorous imprisonment reduced by Confirming Officer to 1 year").
(d) General, District, Summary General or Summary.
(e) Name and designation of authority issuing order.
(f) Order to be set out in full.
(g) Signature of prescribed officer—See Rule 153.

APPENDIX V.**MINOR PUNISHMENTS UNDER SECTION
20 OF THE JAMMU AND KASHMIR ARMY
REGULATION.**

The punishments which may be summarily award-
able to persons subject to the Jammu and Kashmir Army
Regulations and the officers by whom these punishments
may be awarded are set forth in the following table.

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishments.	Relevant instructions and reference.
<p>I. FORFEITURE OF SENIORITY OR OF SERVICE FOR THE PURPOSE OF PROMOTION AND REPRIMAND.—</p> <p>(a) Forfeiture of seniority, or, in the case of an officer whose promotion depends upon length of service, of service for the purpose of promotion, for a period not exceeding 12 months.</p> <p>(b) Reprimand or severe reprimand.</p> <p>(a) Forfeiture of seniority, or, in the case of a Warrant Officer whose promotion depends upon length of service, of service for the purpose of promotion, for a period not exceeding 12 months.</p> <p>(b) Reprimand or severe reprimand.</p>	An officer empowered to convene a General Court-martial.	Any Indian Officer.	When it is proposed to award a punishment of forfeiture of seniority or of service for the purpose of promotion, the Indian Officer or Warrant Officer shall be asked whether he desires to be dealt with summarily or be tried by court-martial and, if he elects to be tried by Court martial, he shall not be punished summarily under this paragraph.
	An Officer empowered to confirm the finding and sentence of a Court-martial held for the trial of a Warrant Officer.	Any Warrant Officer.	
	Officer Commanding a Brigade Area.	All persons subject to Jammu and Kashmir Army Regulation, other than Indian Officers, Warrant Officers and Non-Commissioned Officers.	1. If rigorous imprisonment be awarded any portion of the imprisonment not exceeding 7 days may be with solitary confinement.
		Do.	
(b) Imprisonment (rigorous or simple, and with or without solitary confinement) not exceeding 14 days.	Commanding officer not below rank of a field officer.		
(c) Imprisonment (rigorous or simple, and with or without solitary confinement) not exceeding 7 days.	Commanding Officer below rank of field Officer and officers Commanding a detachment if authorised by Commanding Officers.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-Commissioned Officers.	<p>2. Imprisonment shall not be awarded in respect of an offence committed while the offender was of or above the rank of Non-Commissioned Officers.</p> <p>3. An acting or lance Non-Commis-</p>

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and reference.
III. CONFINEMENT TO THE LINES. (a) For any period not exceeding 28 days.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-Commissioned Officers.	sioned Officer is legally a Non Commissioned Officer and can only be awarded punishments awarded to Non Commissioned Officers for an offence committed when a Non-Commissioned Officer.
			4. An officer may remit punishment awarded by an Officer under his command but he cannot increase it.
			5. Imprisonment shall be reserved for serious and repeated offences.
			6. Imprisonment commences from the date of award and ends at sunset of the day the sentence expires.
			7. An officer commanding a detachment may not award solitary confinement.
			8. A sentence of simple imprisonment carries with it punishment drill for 2 hours only.
			9. Commanding Officer under rank of Field Officer when specially authorised by name by Commander-in-Chief may award upto 28 days imprisonment.
			1. Any award of more than 14 days carries with it punishment drill for 14 days otherwise for each day of the award.

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and references.
(b) For any period not exceeding 10 days.	Company Commander or Adjutant if authorised by Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers Warrant Officers and Non Commissioned Officers.	2. Punishment drill for combatants only consists of marching in quick time and not of instruction drill. It will be carried out in marching order, and will not exceed one hour at a time or two hours in the day.
(c) For any period not exceeding 7 days.	Other State Officer or an Indian Officer commanding a detachment if authorised by Commanding Officer.	Do.	3. Defaulters will attend parades and take all duties in regular turn. They will be required to answer their names at under trial hours and may be employed on working parties.
(d) For any period not exceeding 3 days.	Other Indian Officers if authorised by Commanding Officer.	Do.	....
IV. EXTRA DUTIES.—			
(a) Extra guard or picquets.	(i) Commanding Officer. (ii) Company Commander, Adjutant or an Indian Officer commanding a detachment up to a limit of 3 such duties for any one offence if authorised by the Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation, other than Indian Officers.	For minor offences on these duties.
(b) Extra duties or working parties.	Do.	Non-Commissioned Officers.	According to status and occupation.
V. DEPRIVATION OF ACTING RANK APPOINTMENT OR OF SIGNAL ARTIFICER, CORPS OR WORKING PAY.			
(a) Deprivation of acting and lance rank, or of a position in the nature of an appointment.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers.	

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and references.
(b) Deprivation of signal, artificer or corps, pay for any day on which an offence (including idleness or negligence) is committed, or the offender may be disrated temporarily for a period not exceeding 28 days.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers.	
(c) Deprivation of working pay for any day on which an offence (including idleness or negligence) connected with the work for which the pay is drawn is committed.	Commanding Officer or Indian Officer Commanding a Detachment if authorised by his Commanding Officer.	Do.	
VI. FORFEITURE OF GOOD SERVICE AND GOOD CONDUCT PAY :—			
(a) Forfeiture of one rate good service or good conduct pay.	Commanding Officer.	Do.	May be awarded in addition to any other punishment.
VII. REPRIMAND :—			
(a) Reprimand or severe reprimand.	Do.	Warrant officers and Non-Commissioned Officers including acting Non-Commissioned Officers.	Non-Commissioned Officers or privates may be admonished but the latter will not be reprimanded.
VIII. FINES —			
(a) Fine to the extent of 7 days' pay for a month.	Do.	Non-Commissioned Officers except Warrant Officers.	May be awarded either alone or in conjunction with any other punishment except imprisonment.
(b) Fine to the extent of 4 day's pay for a month.	Departmental Officer i. e. Senior Assistant Surgeon independent charge if not empowered to award imprisonment.	Non-Combatants.	

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and references.
IX. PENAL DEDUCTION—			
(a) Any sum required to make good such compensation for any expenses caused by him, or for any loss or damage or destruction done by him to any arms, ammunition equipment clothing, instruments, regimental necessaries, or Military decorations or to any buildings or property.	Commanding Officer.	Any person subject to Jammu and Kashmir Army Regulation.	Jammu and Kashmir Army Regulation Section 50 (f).
X. FIELD PUNISHMENTS:—			
(a) No. 1 or No. 2 upto 28 days.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-commissioned Officers.	On active service only. For details see Rule 155 Jammu and Kashmir Army Regulation.
(b) No. 1 or No. 2 upto 7 days.	Indian Officers, Commanding detachment.	Do.	Do.

Note.—Punishments of imprisonments, confinement to the lines and extra guard or pickets may be awarded separately or conjointly but the carrying out of imprisonment will precede confinement to the lines, and no award or awards including imprisonment and confinement to the lines shall exceed 28 consecutive days.

Field punishments can similarly be awarded separately or conjointly

*Fifth Appendix—(continued).*THE METHOD OF ENTERING AWARDS ON
CONDUCT SHEETS.

SHEET ROLL ENTRIES.

The following entries will be made in red ink in the conduct sheet contained in the sheet roll which will be maintained for every person subject to the Jammu and Kashmir Army Regulation:—

- (i) Every award of forfeiture of seniority of rank (Indian Officers and Warrant Officers only);
- (ii) Every conviction by Court-Martial;
- (iii) Every conviction by a Civil Court, except when fine was the only punishment and the Commanding Officer does not consider that a red ink entry should be made;
- (iv) Every case of reduction of a Non-Commissioned Officer to a lower grade or to the ranks; for an offence but not for inefficiency;
- (v) Every case of deprivation of an appointment, or of lance or acting rank, for an offence but not for inefficiency;
- (vi) Every award of severe reprimand, (Indian Officers, Warrant Officers and Non-Commissioned Officers).
- (vii) Every award of imprisonment;
- (viii) Every award of field punishment (on active service only);
- (ix) Every award of confinement to the lines exceeding 14 days;
- (x) Every award of forfeiture of good service or good conduct pay.

Fifth Appendix.—(concluded).

(xi) Every offence entailing forfeiture of pay and allowances except as in item (xii) below ;

(xii) Every case involving forfeiture of pay and allowances for absence without leave exceeding two days classified as an offence by the Commanding Officer.

The following entries will be made in black ink in the conduct sheet :—

(i) Any punishment not included in the above ;

(ii) A conviction of a Civil Court when fine was the only punishment and the Commanding Officer does not consider that a red ink entry should be made ;

(iii) Every case involving forfeiture of pay and allowances for absence without leave not exceeding two days classified as an offence by the Commanding Officer.

NOTE.—The mode of recording entries is laid down in the King's regulation (Section 1634-1636).

APPENDIX VI.

Powers delegated to the Commander-in-Chief, the Army Minister, the Chief of the Military Staff, the General Staff Officer, the Officer Commanding a brigade and the Officer Commanding a unit under the Jammu and Kashmir Army Regulation and Rules.

APPENDIX " B "

POWERS OF THE COMMANDER-IN-CHIEF.

Section 13 ... To dismiss from the service any person subject to this Regulation other than a State Officer.

Section 19 ... To reduce to a lower grade or to the ranks any non-commissioned officer.

Section 20 ... To specify the minor punishments to which persons subject to this Regulation shall be liable without the intervention of a court-martial.

Section 23 ... To appoint provost-marshalls.

Section 102 ... To set aside the proceedings or reduce the sentence of a Summary Court-martial to any other sentence which the Court might have passed.

Section 103 ... To substitute a valid sentence for an invalid one.

Section 112 ... To pardon the person convicted by a Court-martial of any offence or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.

Rule 13 ... To authorize the discharge of State Officers.

Rule 82 ... To allow council in certain General and District Courts-martial.

Rule 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of War.

Rule 163-A ... To make provision for dependants of prisoners of war whose pay and allowances have been forfeited.

POWERS OF THE ARMY MINISTER.

Section 13 .. To dismiss from the services any person subject to this Regulation other than State Officer.

Section 19 ... To reduce to a lower grade or to the ranks any Non-commissioned Officer.

Section 21 ... To impose a collective fine upon the officers, non-commissioned officers or men of a unit responsible for loss or theft of a weapon or part of a weapon.

Section 102 ... To set aside the proceedings or reduce the sentence of a summary Court-martial to any other sentence which the Court might have passed.

Section 103 ... To substitute a valid sentence for an invalid one.

Section 112 ... To pardon the person (in the case of a sentence which he could have confirmed or which did not require confirmation) convicted by a court-martial of any offence or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.

Rule 13 .. To authorize the discharge of Indian Officers and Warrant Officers.

Sixth Appendix—(continued).

(i) On transfer to the pension establishment otherwise than at his own request or having been found medically unfit for further service;

(ii) with gratuity, otherwise than at his own request;

(iii) his service being no longer required.

Rule 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of war.

Rule 163-A ... To make provision for dependents of prisoner of war whose pay and allowances have been forfeited.

Rule 164 ... To decide whether the proceedings should be instituted before a Criminal Court or a Court-martial.
Also see section 69.

Rule 164 ... To deliver over the offender in compliance with the requisition of a criminal court or to refer the question as to the court before which the proceedings are to be instituted for the determination of His Highness.
Also see section 70.

Warrant No. To convene and confirm the findings of the General and District Courts-martial held on persons subject to the Jammu and Kashmir Army Regulation other than State Officers.

POWERS OF THE CHIEF OF THE MILITARY STAFF.

Rule 13 ... To authorize the discharge of.—

(1) Indian Officers and Warrant Officers.

(i) On transfer to the pension establishment.

Sixth Appendix—(continued).

- (a) At his own request with less than 24 years service.
- (b) On completion of 24 years' service, unless retained on the active list as a special case for a further specified period with the sanction of the Commander-in-Chief.
- (ii) On resignation of his Commission.
- (iii) Having been found medically unfit for further service.
- (2) Persons enrolled under the Regulation who have been attested.
 - (a) On completion of service (with or without pension or gratuity) persons of the rank of Havildar (or equivalent rank).
 - (b) On transfer to the pension establishment or with gratuity, otherwise than under item (xii), (xiii) or (xiv) of this Rule.
 - (c) On compassionate grounds before fulfilling the conditions of his enrolment.
 - (d) His services being no longer required.

POWERS OF THE GENERAL STAFF OFFICER.

Section 85 ... To issue a commission to take the evidence of a witness.

Sections 132 & 133 .. To preserve the proceedings of a Court-martial other than a Summary Court-martial and to grant a copy thereof upon payment.

POWERS OF THE OFFICER COMMANDING A BRIGADE.

Section 14 ... To dismiss from the service any person serving under his command

Sixth Appendix—(continued).

other than an officer or warrant officer.

Section 19 ... To reduce to a lower grade or to the ranks any Non-Commissioned Officer under his command.

" 108 ... To direct execution of a sentence of imprisonment in special cases.

" 126-B ... To make order for the disposal by destruction, confiscation, etc., of any property or document regarding which any offence appears to have been committed.

RULES.

Rule 13 ... To authorize the discharge of persons enrolled under the Regulation (A) who have been attested :—

- (1) On termination of service (with or without pension or gratuity) at his own request ;
- (2) On completion of service (with or without pension or gratuity) otherwise than at his own request as regards persons below the rank of Havildar (or equivalent rank) ;
- (3) On termination of engagement ;
- (4) Having reached age for discharge ;
- (5) Having been found medically unfit ;
- (6) Having re-entered the service after being dismissed or discharged without at the time of such re-entry stating the fact of his previous dismissal or discharge, or showing his certificate of dismissal or discharge ;

Sixth Appendix—(continued).

250
10 190 (7) Not being a good soldier.

(B) who are not attested on compassionate grounds before fulfilling the conditions of his enrolment.

Rule 156 ... To order assembly of a Court-of-inquiry to investigate the circumstances under which the loss or theft of a rifle, etc., occurred and call for opinion as to the circumstances of the loss or theft of a rifle, etc.

" 162-A ... To retain under section 49-A in the ranks a person convicted on active service.

POWERS OF THE COMMANDING OFFICER.

Section 12 ... To attest a person subject to this Regulation.

" 17 ... To furnish a discharge certificate to every enrolled person who is dismissed or discharged.

" 19 ... To order an acting non-commissioned officer to revert to his permanent grade as a non-commissioned officer or to the ranks, if, he has no permanent grade above the ranks.

" 22 ... To punish any follower subject to this Regulation for an offence, in breach of good order, on active service, in camp, on the march, etc.

" 23 ... To appoint provost marshalls on active service.

" 62 ... To convene a Summary General Court-martial on active service.

Sixth Appendix—(continued).

- Section 64 ... To hold a summary Court-martial.
- " 76 ... To award a sentence of imprisonment on a summary Court-martial.
- " 84 ... To summon witnesses or to order production of documents.
- " 98 ... To confirm the finding and sentence of a Summary General Court-martial on active service.
- " 99 ... To mitigate, remit or commute the sentence of a Summary General Court-martial at the time of confirming it.
- " 100 ... To revise the finding or the sentence of a Summary General Court martial on active service.
- " 107 ... To issue warrant for execution of a sentence of imprisonment.
- " 112 ... To pardon the person (on active service outside the State, in the case of a sentence which he could have confirmed or which did not require confirmation) convicted of any offence by a court-martial or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.
- " 114 to 116 To secure and dispose of the moveable property belonging to the deceased or deserter that is in the camp or quarters.
- " 122 ... To decide a question arising as to the proper military authority qualified to grant a certificate of leave of absence

Sixth Appendix—(continued).

taken for prosecuting or defending a suit or other proceeding in a court.

Section 123 ... To give written information of the desertion to civil authorities for apprehension of a deserter.

" 125 ... To apply to civil authorities for arrest of a person subject to this Regulation who is accused of any offence under this Regulation.

" 126 ... To hold a court of inquiry on the absence of a person subject to this Regulation and to enter in the Court-martial Book of the corps or department a record of the declaration of such court. Also see Rule 159.

RULES.

Rule 11 ... To issue discharge certificate to every Indian Officer or Warrant Officer who is discharged or dismissed.

" 13 ... To authorize the discharge of followers and recruits.

" 14 ... To report to the officer to whom application would be made to convene a general or district court-martial every case of a person being detained in custody beyond a period of 48 hours with reasons thereof.

" 15 ... To investigate and dispose of the charge or adjourn for taking down summary of evidence or to apply to try the accused by Summary Court-martial.

" 16 ... To remand the accused for trial by Court-martial or to apply for General or District Court-martial.

Sixth Appendix—(concluded).

- Rule 17 ... To forbear from increasing the punishment, once awarded for an offence.
- Rules 132 & 133... To preserve the proceedings of a summary court-martial and to grant copy thereof upon payment.
- Rule 152 ... To sign a warrant for the committal of a person sentenced by a court-martial to a civil prison.
- „ 162 ... To reduce on active service a non-commissioned officer to lower grade or to the ranks.
- „ 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of war or of a person who has been absent without leave for a period not exceeding 5 days.
- „ 164-A ... To set aside the proceedings or reduce the sentence of a summary court-martial to any other sentence which the court might have passed.
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REIGN OF KING CHARLES THE FIRST

IN THE YEAR 1649. THE FIRST PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE FIRST PART.

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THE FOURTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE FOURTH PART.

THE FIFTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE FIFTH PART.

THE SIXTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE SIXTH PART.

THE SEVENTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE SEVENTH PART.

THE EIGHTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE EIGHTH PART.

THE NINTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE NINTH PART.

THE TENTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE TENTH PART.

THE ELEVENTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE ELEVENTH PART.

THE TWELFTH PART. OF THE HISTORY OF THE REIGN OF KING CHARLES THE FIRST. IN THE YEAR 1649. THE TWELFTH PART.

PART II

THE JAMMU AND KASHMIR ARMY (SUSPENSION OF SENTENCES) REGULATION.

REGULATION NO. XV OF 1989.

CONTENTS.

Sections.

1. Short title and constructions.
2. Definitions.
3. Suspension of sentences.
4. Calculation of period of sentence under suspension.
5. Power to set aside suspension or order remission.
6. Periodical review of suspended sentences.
7. Procedure on further sentence of offender whose sentence is suspended.
8. Saving of section 112, Jammu and Kashmir Army Regulation.
9. Provision as to dismissal.

THE BOARD OF DIRECTORS OF THE
UNITED STATES DEPARTMENT OF AGRICULTURE

REGULATIONS FOR THE YEAR 1913

CHAPTER I

ARTICLE I

Section 1

Section 2

Section 3

Section 4

Section 5

Section 6

Section 7

Section 8

Section 9

Section 10

REGULATION NO. XV OF 1989.

A Regulation to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Jammu and Kashmir Army Regulation 1989.

Whereas it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or imprisonment for life passed by Courts-martial on persons subject to the Jammu and Kashmir Army Regulation, 1989; it is hereby enacted as follows:—

1. This Regulation may be called the Jammu and Kashmir Army (Suspension of Sentences) Regulation XV, 1989, and shall be construed as one with the principal Regulation. Short title and Construction.

2. In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

- (a) “committed” means committed to prison or to confinement in military custody;
- (b) “competent military authority” means a superior military authority or any general or other officer not below the rank of field officer duly authorised by a superior military authority;
- (c) “imprisonment” includes confinement in military custody;
- (d) “principal Regulation” means the Jammu and Kashmir Army Regulation, 1989.
- (e) “sentence” means a sentence of imprisonment for life or imprisonment, whether originally passed on a person subject to the principal Regulation, or passed by way of reduction or commutation; and “sentenced” has the corresponding meaning; and
- (f) “superior military authority” means the Commander-in-Chief or any officer em-

powered under the principal Regulation to convene general courts-martial or summary general courts-martial.

Suspension
of sentences.

3. (1) Where a person subject to the principal Regulation is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the president of the Court-martial when passing sentence may, notwithstanding anything in the principal Regulation direct that such person be not committed until the orders of a superior military authority have been obtained.

(2) A superior military authority may, in the case of any such offender so sentenced, —

(a) direct that, until his orders have been obtained, such offender shall not be committed; and

(b) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

Calculation
of periods of
sentence
under suspen-
sion.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Power to
set aside
suspension or
order remis-
sion.

5. A superior military authority may, at any time whilst a sentence is suspended under this Regulation, order —

(a) that the offender be committed to undergo the unexpired portion of the sentence, or

(b) that the sentence be remitted.

Periodical
review of
suspended
sentences.

6. Where a sentence has been suspended under this Regulation, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such re-consideration, it appears to such authority that the

conduct of the offender since his conviction has been such as to justify a remission of the sentence he shall, if he is not also a superior military authority refer the case to a superior military authority.

7. Where an offender, while a sentence on him is suspended under this Regulation, is sentenced for any other offence, then—

Procedure on further sentence of offender whose sentence is suspended.

- (a) if the future sentence is also suspended under this Regulation, the two sentences shall run concurrently :
- (b) if the further sentence is for a period of three months or more and is not suspended under this Regulation, the offender shall also be committed on unexpired portion of the previous sentence, but both sentences shall run concurrently : and
- (c) if the further sentence is for a period of three months or less, and is not suspended under this Regulation, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

8. The powers conferred by this Regulation shall be in addition to and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Regulation, and a superior military authority shall, as regards persons subject to that Regulation, be an authority having power to mitigate, remit or commute sentences under section 112 of that Regulation.

Saving of Section 112, Regulation of 1989.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under this Regulation, then, notwithstanding anything contained in the principal Regulation or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority :

Provision as to dismissal.

Provided that if, a sentence is remitted under this Regulation the punishment of dismissal shall also be remitted.

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PART III.

STATE SOLDIERS' LITIGATION REGULATION No. V OF 1989.

The following Regulation has been sanctioned by His Highness the Maharaja Bahadur and is hereby published for general information :

REGULATION No. 5 OF 1989.

A Regulation to consolidate and amend the law to provide for the special protection in respect of Civil and Revenue litigation of the State soldiers serving under special conditions.

Whereas it is expedient to consolidate and amend the law to provide for the special protection in respect of Civil and Revenue litigation of the State soldiers serving under special conditions ; it is hereby enacted as follows:—

1. (1) This Regulation may be called the State Soldiers' (Litigation Regulation, 1989).

Short title,
extent and
commence-
ment.

(2) It extends the whole of Jammu and Kashmir State.

(3) It shall come into force atonce.

2. In this Regulation, unless there is anything repugnant in the subject or context :—

Definition.

(a) "Court" means a Civil or Revenue Court ;

(b) "State Soldiers" means any person subject to the Kashmir Service Regulation and enlisted in and borne on the strength of any corps, unit or department administered by the Army Department of Jammu and Kashmir Government ;

(c) "prescribed" means prescribed by rules made under this Regulation; and

(d) "proceeding" includes any suit, appeal or application.

Circumstances in which a State soldier shall be deemed to be serving under special conditions.

3. For the purpose of this Regulation, a State soldier shall be deemed to be, or as the case may be, to have been serving—

(a) Under special conditions—

(i) When he is or has been serving under peace conditions in any province of the Jammu and Kashmir State other than the province where the court before which the proceedings are to be taken is situated; provided that the Commanding Officer of the individual shall certify in writing that the individual cannot attend the Court for reasons of State duty.

(ii) When he is or has been serving under War conditions or overseas, or at any place outside the territories of the Jammu and Kashmir State.

(b) Under War conditions—

When he is or has been, at any time during the continuance of any hostilities declared by His Highness the Maharaja Bahadur by Notification in the Jammu and Kashmir Government Gazette to constitute a State of War for the purpose of the Regulation or at any time during a period of six months thereafter;—

(i) under orders to proceed on field service, or for Frontier duty at any place within the territorial limit of Gilgit and Ladakh or

(ii) serving with any Unit which is for the time being mobilized for service in Gilgit or Ladakh or mobilized for any purpose whatsoever.

4. If any person presenting any plaint, application or appeal to any court has reason to believe that any adverse party is a State soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal. Particulars to be furnished in plaints, applications or appeals to Court.

5. If any Wazir-i-Wazarat has reason to believe that a State soldier who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Wazir-i-Wazarat may certify the fact in the prescribed manner to the Court. Power of Wazir-i-Wazarat to intervene in case of unrepresented State soldier.

6. If a Wazir-i-Wazarat has certified under Section 5, or if the Court has reason to believe that a State soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority. Notice to be given in case of unrepresented State soldier.

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

- (a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or
- (b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

7. If, on receipt of a notice under Section 6 the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall there-upon postpone the proceeding in respect of the soldier for the prescribed Postponement of proceedings.

period, or if no period has been prescribed, for such period as it thinks fit.

Court may proceed when no certificate received.

8. If, after issue of a notice under Section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postponement of proceedings against State soldier on leave.

9. When any document purporting to be signed by the Commanding Officer of a State soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(b) is on sick leave for a period not exceeding three months and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions, the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to Section 6 and shall, in any other case be postponed in the manner provided in Section 7.

Power to set aside decrees and orders passed against State soldier serving under war or special conditions.

10. (1) In any proceeding before a Court in which a decree or order has been passed against a State soldier whilst he was serving under war conditions or at any time after its enforcement, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days, after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions.

Provided that the provisions of Section 5 of the Limitation Regulation, shall apply to such applications.

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

11. In computing the period of limitation prescribed by the Limitation Regulation or any other law for the time being in force for any suit, appeal or application to any Court by any party which is or has been a State soldier the time during which the soldier has been serving under war conditions since 1972, shall be excluded.

Modification of law of limitation where State soldier serving under war or special conditions is a party.

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

12. If any Court is in doubt whether, for the purpose of Section 10 or Section 11, a State soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

Power of Court to refer question as to whether service was under War or other special conditions.

13. His Highness the Maharaja Bahadur, after consulting the High Court, may, by notification in the Jammu and Kashmir Government Gazette, make rules to provide for all or any of the following matters,

Rule making power.

namely :—

- (a) The manner and form in which any notice or certificate under this Regulation shall be given ;
- (b) the period for which proceedings or any class of proceedings shall be postponed under Section 7 ;
- (c) the persons who shall be the prescribed authorities for the purposes of this Regulation ;
- (d) any other matter which is to be or may be prescribed ; and
- (e) generally, any matters incidental to the purposes of this Regulation.

Power to apply the provisions of the Regulation to other persons in the service of His Highness.

14. His Highness the Maharaja Bahadur, may, by Notification in the Jammu and Kashmir Government Gazette, direct that all or any of the provisions of this Regulation shall apply to any other class of persons in the service of His Highness the Maharaja Bahadur specified in such Notification in the same manner as they apply to State soldiers.

15. The Indian Soldiers Litigation Regulation 1972 and State Council Resolution No. 6 of 28th July 1984 are hereby repealed.

**Rules under section 13 of the State Soldiers' Litigation
Regulation No. 5 of 1989.**

In exercise of the Powers conferred by section 13 of the State Soldiers' (Litigation) Regulation No. 5 of 1989, His Highness the Maharaja Bahadur, after consulting the High Court of Judicature, has been pleased to make the following Rules : —

1. The prescribed authority for the purposes of section 6 of the State Soldiers' Litigation Regulation No. 5 of 1989 shall be the Officer Commanding the unit or the Officer Commanding the Depot of the unit to which the soldier belongs care of the Chief of the Military Staff.
 2. The notice to be given under section 6 shall be in the form of a letter from the Presiding Officer of the Court in which the proceeding is instituted to the authority prescribed by Rule 1 and shall be accompanied by a copy of the plaint or of the memorandum of appeal, including a copy of the decree, or of the application in the proceeding as the case may be.
 3. Every certificate issued under section 5 or section 7 of the Regulation shall be in the form of a letter addressed to the Presiding Officer of the Court in which the proceeding is instituted.
 4. The period for which any proceeding shall be postponed under section 7 shall be :—
 - (a) Until the end of the War, or
 - (b) Until the authority prescribed by Rule 1 certifies that the soldier has returned to his home or has died, whichever period is shorter.
 5. The authority to whom any point that arises for decision under section 12 of the said Regulation shall be referred shall be the Chief of the Military Staff.
-

Department of the State
Washington, D.C.

Mr. [Name] [Address]
[City] [State] [Zip]

The enclosed [document] for the [purpose] of [reason] is [sent] to you [by] [method].

Very truly yours,
[Signature]

[Name]
[Title]
[Department of the State]

Enclosed for you are [documents] [relating to] [subject].

Sincerely,
[Signature]

[Name]
[Title]
[Department of the State]

The [document] is [sent] to you [by] [method] [for] [purpose].

PART IV.

NOTIFICATIONS AND WARRANTS ISSUED UNDER
THE JAMMU AND KASHMIR ARMY REGULATION.

NOTIFICATIONS.

No. 1—COMMENCEMENT OF THE REGULATION.

(Army Department Notification No. , dated)

In exercise of the powers conferred by section 1, sub-section (2) of the Jammu and Kashmir Army Regulation His Highness the Maharaja Bahadur is pleased to appoint the 28th Baisakh 1991 as the date on which the said Regulation shall come into force.

No. II—FRONTIER POSTS.

(Army Department Notification No. , dated)

In pursuance of clause (c) of sub-section (1) of section 2, and of sub-section (1) of section 22 of the Jammu and Kashmir Army Regulation His Highness the Maharaja Bahadur is pleased to specify the following frontier posts for the purposes of the said clause and of the said sub-section, namely:—

Local Command Gilgit.

Gilgit
Bunji
Astore

Rattu
Gupis
Chilas

Ladakh
Askardu, and
any other
military post
towards the
north of
Bandipur.

No. III. RELATIVE RANK OF CIVIL OFFICIALS.

(Army Department Notification No. , dated)

In pursuance of section 3, sub-section (1), of the Jammu and Kashmir Army Regulation, His Highness the

Maharāja Bahadur is pleased to direct that the following classes of Government servants, when subject to the said Regulation in accordance with the provisions of section 2 sub-section (1), clause (c), thereof, shall be so subject in the manner hereinafter prescribed, namely:—

(1) All gazetted officers, and such non-gazetted officers as may have been granted by or under the orders of His Highness the Maharaja Bahadur, the relative rank for precedence of State Officers, Subedar or Jemadar, shall be so subject as officers.

(2) Such non-gazetted officers, as may have been granted by or under the orders of His Highness the Maharaja Bahadur the relative rank for precedence of warrant officer, shall be so subject as warrant officers, and such non-gazetted officers as may have been granted by or under the orders of His Highness the Maharaja Bahadur the relative rank for precedence of Havildar or Naick shall be so subject as non-commissioned officers.

(3) Non-gazetted officers, other than those referred to in Rules 1 and 2, whose salary exclusive of field allowances is sixteen rupees per mensem or upwards shall be so subject as warrant or non-commissioned officers, that is to say:—

(a) an officer whose salary, exclusive of field allowances, is fifty rupees per mensem or upwards shall be so subject as a warrant officer ;

(b) an officer whose salary, exclusive of field allowances, is sixteen rupees per mensem or upwards, but is less than fifty rupees per mensem, shall be so subject as a non-commissioned officer.

His Highness the Maharaja Bahadur is further pleased to authorize the officer commanding any force on active service to direct that any persons accompanying such force who are subject to the said Regulation in accordance with the provisions of section 2, sub-section (1) clause (c), thereof, shall be so subject as officers, warrant

officers, or non-commissioned officers and to cancel such direction.

(Army Department Notification No. , dated)

In pursuance of section 3, sub-section (1) of the Jammu and Kashmir Army Regulation, His Highness the Maharaja Bahadur is pleased to direct that the following classes of civil officers shall, when subject to the said Regulation under section 2, sub-section (1) clause (c) thereof, be so subjects as officers, warrant officers, or non-commissioned officers respectively:—

I.—STATE OFFICERS.

- (i) Tehsildars.
- (ii) Munsiffs.
- (iii) Civil Assistant Surgeons.
- (iv) Inspectors of Police.

II.—INDIAN OFFICERS.

- (i) Naib-Tehsildars and Magistrates Class III.
- (ii) Civil Sub-Assistant Surgeon of the "Senior" grade, first and second classes ; and
- (iii) Sub-Inspectors of Police.

III.—AS WARRANT OFFICERS.

- (i) Civil Sub-Assistant Surgeons of the 1st, 2nd, 3rd and 4th grades ; and
- (ii) Clerks drawing a salary of Rs. 50 per mensem and upwards.

IV.—AS NON-COMMISSIONED OFFICERS.

- (i) Compounders.
- (ii) Head Constables of Police.
- (iii) Revenue and Judicial Officers other than those shown in clause I and II.
- (iv) Clerks drawing salaries of less than Rs. 50 but not less than Rs. 16 a month.

*Warrant for convening and confirming General
Courts-Martial under the Jammu and Kashmir
Army Regulation.*

To

THE ARMY MINISTER,

In pursuance of the provisions of the Jammu and Kashmir Army Regulation, I do hereby empower you, or the officer on whom your duties may devolve during your absence, from time to time, as occasion may require, to convene General Courts-Martial for the trial, in accordance with the said Regulation and the Rules made thereunder, of any person other than a State Officer under you who is subject to Military law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a General Court-Martial.

And I do hereby empower you, or the officer on whom your duties may devolve during your absence, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation in the confirming Officer, in such manner as may be best for the good of my Government.

Provided always that if by the sentence of any General Court-Martial a person has been sentenced to suffer death or imprisonment for life, you shall in such case, as also in the case of any other General Court-Martial in which you shall think fit so to do, withhold confirmation and transmit the proceedings to me.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at
of 19 .

this

day

MAHARAJA,

Jammu and Kashmir.

Warrant for convening and confirming District Courts-Martial under the Jammu and Kashmir Army Regulation.

To

THE OFFICER, NOT BEING UNDER THE RANK
OF A FIELD OFFICER COMMANDING
THE* BRIGADE.

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation, and whereas under that Regulation, any officer having power to convene General Courts-Martial may empower any officer to convene a District Court-Martial for the trial under that Regulation of any person under the command of such last mentioned officer who is subject to the Military law.

By virtue of the said Regulation I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, from time to time as occasion may require, to convene District Courts-Martial for the trial, in accordance with the said Regulation and the Rules made thereunder, of any person other than a State Officer under your command who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Court-Martial.

And I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation, in the confirming Officer, in such manner as may be best for the good of His Highness' Service.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at this day
of 19 .

(Signature of officer having power
to convene General Courts-Martial).
(Signature of Staff Officer).

*The warrant is issued to Ordinary Brigade Commanders by the Army Minister.

Warrant for convening and confirming District Courts-Martial under the Jammu and Kashmir Army Regulation.

To THE OFFICER, NOT BEING UNDER THE RANK OF A FIELD OFFICER, COMMANDING AT*

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation and whereas under that Regulation any officer having power to convene General Courts-Martial may empower any officer to convene a District Courts-Martial for the trial under that Regulation of any person under the command of such last-mentioned officer who is subject to the Military law.

By virtue of the said Regulation I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, from time to time, as occasion may require, to convene District Courts-Martial for the trial, in accordance with the said Regulation and the rules made thereunder, of any person other than State Officer under your command, who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Court-Martial.

And I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation in the confirming officer, in such manner as may be best for the good of His Highness' Service :

Provided always, that in the case of any District Court-Martial held for the trial of a Warrant Officer, as also in the case of any other District Court-Martial in which you shall think fit so to do, you shall withhold confirmation and transmit the proceedings to me

the Officer Commanding the

Brigade.

The warrant is issued to officers commanding at important stations by the Army Minister.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at this
day of 19 .

*(Signature of Officer having power to
convene General Courts-Martial).*

(Signature of Staff Officer).

*Warrant for convening District Courts-Martial
under the Jammu and Kashmir Army Regulation.*

To

THE OFFICER, NOT BEING UNDER THE RANK OF A
CAPTAIN COMMANDING AT*

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation, and whereas under that Regulation, any officer having power to convene General Courts-Martial may empower any officer to convene a District Court-Martial for the trial under that Regulation of any person under the command of such last-mentioned officer who is subject to the Military law.

By virtue of the said Regulation, I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Captain, from time to time, as occasion may require, to convene District Courts Martial for the trial, in accordance with the said Regulation, and the Rules made thereunder of any person other than a State Officer under your command, who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Courts-Martial:

Provided always that the power granted in this warrant is only to be exercised in respect of accused person whose trial has been ordered from Army headquarters or by me _____
the Officer Commanding _____ Brigade.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at _____
of 19 .

this _____ day

(Signature of officer having power to
convene General Courts-Martial).

(Signature of Staff Officer).

*This warrant is issued to officers commanding at small stations by the
Minister.

5/52

HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

MANUAL

OF

JAMMU AND KASHMIR MILITARY LAW

1989.



Jammu and Kashmir Army Department.

JAMMU :

Printed at The Ranbir Government Press—23-7-91—500.

1934.

Price Rs. 8/-

JANUARY

1880

HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

K. DIVISION.

Rec No 78438

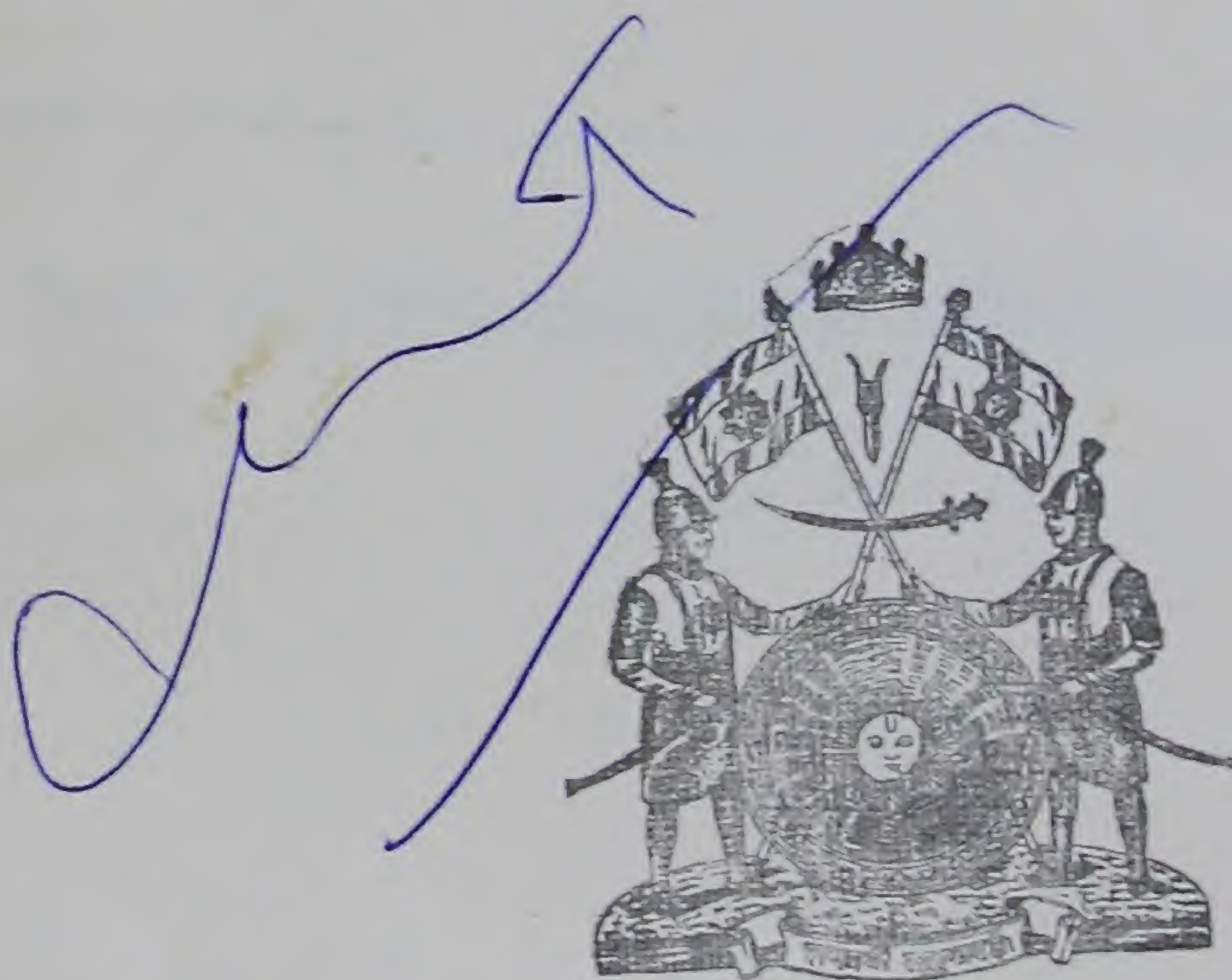
Date 28-3-72

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Printed at The Ranbir Government Press.

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Manual of Jammu and Kashmir Military Law 1989.

THE UNIVERSITY OF CHICAGO

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ERRATA.

Reference.	Incorrect word or expression.	Correct word or expression.	REMARKS.
Page 1, 4th line from top.	Government	government	"G" to be small.
Page 16, Section 31 (d) 2nd line.	Miliitary	Military	
Page 38, Section 86 (1) 2nd line.	Attemping	Attempting	
Page 41, 93 (2) 5th line	Trail	Trial	
Page 44 Section 103 line 7.	Provided, that,	Provided that	Both the commas to be omitted.
Page 48, Section 112 (2)	Provided, that,	Provided that,	Comma after the word "provided" to be omitted.
Page 70, Section 7 (x).	.....	.....	To be considered as cancelled.
Page 80, Section 16 (a) (1).	Trail	Trial	
Page 83, Section 25 last line.	Corut martial	Court-martial	
Page 84, Section 26 line 5.	Court martial.	Court-martial.	Hyphen between Court & martial.
Page 107, Section 75 (b) line 4.	Determine,	determine...	Coma after "deter- mine" to be omitted.
Page 107, Section 75 (a) line 5.	aud	and	
Page 113, Section 91 (c) line 3.	whether ...	Whether	letter "w" to be Capital.

Page 173, line 13 from at oclock ... at—o'clock There should be space between the words "at" and "o clock" bottom.

Page 173, Line 10 from the by Presi- by the Presi- dent. dent. bottom.

Page 175, Last line ... li ... if.

Page 177, Instruction objection ... objection before charge sheet.

Page 180, 6th line ... accordanee accordance

Page 180, 12th line ... sufficient, ... sufficient Coma after the word "sufficient" is superfluous.

Page 181, 12th line ... charaetor ... character

Page 184, 14th line ... pusuant ... pursuant

Page 189, Marginal note. accussed ... accused

Page 194, line 2 of In- preduced ... produced struction.

Page 194, line 9 of In- eertified ... certified struction.

Page 195, line 5 from anuity ... annuity bottom.

Page 202, line 4 ... O address ... No address

Page 202, 6 after varia- a ... as tion.

Page 204, Instruction... been compli- have been ed with. complied with

Page 211, Column 2 last civili ... civil item.

Page 215, Foot note (b) of ... or

Page 218, Column 2 (c) a d ... and. 4th line.

Page 222, last line ... Filed ... Field.

Page 239, 3rd line from Comma after Comma before the word "if"

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REGULATION No. XIV OF 1989.

A Regulation to consolidate and amend the law relating to the Government of His Highness' Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the Government of the Officers, soldiers and other persons in His Highness' Forces; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Jammu and Kashmir Army Regulation No. XIV of 1989. Short title and commencement.

(2) It shall come into force on such date as His Highness may, by notification in the Jammu and Kashmir Government Gazette, direct in this behalf.

Application of Regulation.

2. (1) The following persons shall be subject to this Regulation:— Persons subject to Regulation.

(a) Officers and warrant Officers;

(b) Persons enrolled under this Regulation;

(c) Persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by His Highness by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Highness' Forces.

(2) Every person subject to this Regulation under sub-section (1), clause (a) or (b) shall remain so subject until duly discharged or dismissed.

CHAPTER I—*Preliminary*—(continued).

Special provision as to rank in certain cases.

3. (1) His Highness may, by notification, direct that any persons or class of persons subject to this Regulation under section 2, sub-section (1), clause (c), shall be subject as officers, warrant officers or non-commissioned officers, and may authorize any officer to give a direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Regulation other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officers.

Commanding Officer of persons subject to military law under section 2, sub-section (1), clause (c).

4. Every person subject to this Regulation under section 2, sub-section (1), clause (c), shall for the purpose of this Regulation, be deemed to be under the Commanding Officer of the corps, department or detachment (any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his Commanding Officer by the Officer Commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force:

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

Power to apply Regulation to certain forces under the Government of His Highness.

5. (1) His Highness may, by notification, apply all or any of the provisions of this Regulation to any force raised and maintained in the State under the authority of His Highness.

(2) While any of the provisions of this Regulation apply to any such force, His Highness may by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

CHAPTER I—*Preliminary*—(continued).

6. (1) Whenever persons subject to this Regulation are serving.— Officers to exercise powers in certain cases.

(a) out of the State under an officer not subject to the authority of His Highness, or

(b) in the State under an officer commanding any military organization not in this section specifically named and being in the opinion of His Highness not less than a regiment of Cavalry, Battery of Artillery, or Battalion of Infantry.

His Highness may prescribe the officer by whom powers which under this Regulation may be exercised by officers commanding brigade areas, shall, as regards such persons be exercised.

(2) His Highness may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as His Highness may think fit.

7. In this Regulation, unless there is something Definitions.
pugnant in the subject or context—

(1) "State Officer" means a person commissioned, gazetted, or in pay as an officer holding a Commissioned rank in His Highness' Forces superior to that of a Subedar.

(2) "Indian Officer" means a person, commissioned, gazetted or in pay as an officer holding a commissioned rank in His Highness' Forces not superior to that of a Subedar.

(3) "Warrant Officer" means a person appointed, gazetted or in pay as a warrant officer in His Highness' Forces.

(4) "Non-commissioned Officer" means a person appointed under this Regulation holding a non-commissioned rank in His Highness' Forces and includes an acting non-commissioned officer.

CHAPTER I - *Preliminary* - (continued).

(5) "Officer" means a State Officer or Indian Officer, but does not include a warrant officer or non-commissioned officer.

(6) "Commanding Officer", when used in any provision of this Regulation with reference to any separate portion of His Highness' forces or to any department, means the State Officer whose duty it is under the Regulation of the army, or, in the absence of any such Regulation by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision.

(7) "Superior Officer", when used in relation to a person subject to this Regulation, includes a warrant officer and a non-commissioned officer.

(8) Omitted.

(9) "Corps" means any separate body of persons subject to this Regulation which is prescribed as a corps for the purposes of all or any of the provisions of this Regulation.

(10) Brigade means a brigade which is under the command of an officer subject to the authority of His Highness.

(11) "Department" includes any division or branch of a department.

(12) "Enemy" includes all armed mutineers, armed rebels, armed rioters, and any person in arms against whom it is the duty of a person subject to military law to act.

(13) "Active service" as applied to a person subject to this Regulation means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

CHAPTER I—*Preliminary*—(concluded).

(14) "Military custody" means the arrest or confinement of a person according to the usages of the service.

(15) "Military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward.

(16) "Court-martial" means a court-martial held under this Regulation.

(17) "Criminal court" means a court of ordinary criminal justice in the State.

(18) "Civil Offence" means an offence which, if committed in the State would be triable by a criminal court,

(19) "Offence" means any act or omission punishable under this Regulation, and includes a civil offence as hereinbefore defined.

(20) "Notification" means a notification published in the Jammu and Kashmir Government Gazette.

(21) "Prescribed" means prescribed by rules made under this Regulation: and

(22) all words and expressions used herein and defined in the Jammu and Kashmir State Ranbir Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or

Procedure
before enrolling
officer.

CHAPTER II—*Enrolment and Attestation*—(continued)

cause to be read and explained to him in his presence the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under the Regulation, record or cause to be recorded his answer to each such question.

Enrolment.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person of being enrolled fully understands the questions put to him and consents to the conditions of service, and perceives no impediment, he shall sign and shall cause the person to sign the enrolment paper, and the person shall then be deemed to be enrolled.

Presumption of enrolment in certain cases.

10. Every person who has for the space of six months been in the receipt of military pay and been borne on rolls of any corps or department shall be deemed to have been duly enrolled and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Attestation.

Persons to be attested.

11. The following persons shall be attested, namely:—

(a) all persons enrolled as combatants;

(b) all other enrolled persons, prescribed by His Highness.

Mode of attestation.

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be prescribed by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person

CHAPTER II—*Enrolment and Attestation.*—(concluded).

to be attested will be faithful to His Highness, His heirs and successors and that he will serve in His Highness' Forces and go wherever he is ordered by land or sea and that he will obey all commands of any officer set over him even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

13. (a) His Highness may dismiss from the service any person subject to this Regulation.

Dismissal
by His
Highness'
Commander-
in-Chief and
Army Minis-
ter.

(b) The Commander-in-chief or the Army Minister may dismiss from the service any person subject to this Regulation other than a State Officer.

14. The officer commanding a brigade area or a prescribed officer, may dismiss from the service any person serving under his command other than an officer warrant officer.

Dismissal
by officer
commanding
a brigade
area.

15. Omitted.

16. The prescribed authority may in conformity with any rules prescribed in this behalf, discharge from service any person subject to this Regulation.

Discharge.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person setting forth:—

Certificate
to person
dismissed or
discharged.

(a) the authority dismissing or discharging him;

(b) the cause of his dismissal or discharge;

(c) the full period of his service in the Army.

Discharge
etc. out of
State.

18. (1) Any person enrolled under this Regulation who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of the State, and requests to be sent to the State, shall before being discharged, be sent to the State with all convenient speed.

(2) Any person enrolled under this Regulation who is dismissed from the service and who, when he is so dismissed, is serving out of the State, shall be sent to the State, with all convenient speed :

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment for life or imprisonment, a portion of such other punishment may be inflicted before he is sent to the State.

CHAPTER IV.

SUMMARY REDUCTIONS AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

Reduction
of non-com-
missioned
officers.

19. (1) The Commander-in-Chief, the Army Minister, an officer commanding a brigade or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command.

(2) The Commanding Officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

Minor pun-
ishments.

20. (1) The Commander-in-Chief may, subject to the control of His Highness, specify the minor punishments to which persons subject to this Regulation shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

CHAPTER IV—*Summary Reductions and punishments otherwise than by order of Court-martial* – (continued).

(2) Imprisonment in military custody, and in the case of persons subject to this Regulation on active service, any prescribed field punishment may be specified as minor punishments, provided that :

(a) the term of such imprisonment or field punishment shall not exceed twenty-eight days : and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded was of or above such rank.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the Army Minister may, after obtaining the report of a court of inquiry, impose a collective fine upon the officers, non-commissioned officers and men of such unit or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Collective
fines.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any frontier post specified by His Highness by notification in this behalf at which troops are stationed, may punish any follower of such corps or detachment who is subject to this Regulation under section 2, sub-section (1), clause (c) :—

Punishment
of certain
followers.

(a) If such follower is not a menial servant with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees.

(b) If such follower is a menial servant with imprisonment for a term which may extend to seven days, or if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

CHAPTER IV—*Summary Reductions and punishments otherwise than by order of Court-martial—*(concluded).

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer and the officer in charge of any jail shall on the delivery to him of the person of the offender, with a warrant under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost-Marshals.

Appoint-
ment.

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march provost-marshals may be appointed by the Commander-in-Chief or an officer commanding the forces in the field ; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

Duties and
powers.

24. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army. He may at any time arrest and detain for trial any person subject to this Regulation who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

(2) A provost-marshal may punish with any punishment mentioned in section 22, sub-section (1) clause (b), any follower who is subject to this Regulation under section 2, sub-section (1) clause (c) and is a menial servant and who on active service and in his view, or in the view of any of his assistants, commits any breach of good order and military discipline.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

25. Any person subject to this Regulation who commits any of the following offences, that is to say :— Offences punishable with death.

- (a) Shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend; or
- (b) in presence of any enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice; or
- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer; or
- (d) treacherously makes known the watchword to any person not entitled to receive it; or
- (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State; or
- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

CHAPTER V—*Offences*—(continued).

- (g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleep upon his post, or quits it without being regularly relieved or without leave ; or
- (h) in time of action, leaves his commanding officer or his post or party to go in search of plunder ; or
- (i) in time of war, quits his guard, picquet, party of patrol without being regularly relieved or without leave ; or
- (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of His Highness or allied forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ; or
- (k) on active service commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving ;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned.

Offences
not punish-
able with
death.

26. Any person subject to this Regulation who commits any of the following offences, that is to say :—

- (a) strikes, or forces or attempts to force, any sentry ; or
- (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment ; or

CHAPTER V — *Offences* — (continued).

(c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or

(d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Mutiny and insubordination.

27. Any person subject to this Regulation who commits any of the following offences, that is to say:—

Offences
punishable
with death.

(a) begins, excites, causes or conspires with any other persons to cause or joins in any mutiny; or

(b) being present at any mutiny, does not use his utmost endeavours to suppress the same; or

(c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or

(d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(e) disobeys the lawfull command of his superior officer;

shall, on conviction by court-martial be punished with death, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).

Offences
not punish-
able with
death.

28. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) is grossly insubordinate or insolent to his superior officer in the execution of his office ;
or

(b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field ; or

(c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost marshal, or any such officer, non-commissioned officer or other person ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Desertion.

29. Any person subject to this Regulation who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned.

Harbouring
deserter ab-
sence with-
out leave
etc.

30. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) knowingly harbours any deserter, or who knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended ; or

CHAPTER V—*Offences* —(continued).

- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person;
or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in the same or any other corps or department; or
- (d) absents himself without leave, or without sufficient cause overstays leave granted to him; or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service fails, without sufficient cause, to rejoin without delay; or
- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or
- (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march; or
- (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave; or
- (i) without proper authority is found two miles or upwards from camp; or
- (j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).*Disgraceful conduct.*

31. Any person subject to this Regulation who commits any of the following offences, that is to say:—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to him; or
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or
- (c) wilfully destroys or injures any property of Government entrusted to him; or
- (d) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or
- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen; or
- (f) does any other thing with intent to defraud or to cause wrongful gain to one person or wrongful loss to another person; or
- (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or
- (h) with intent to render himself or any other person unfit for service voluntarily causes hurt to himself or any other person; or

CHAPTER V—*Offences*—(continued).

- (i) commits any offence of a cruel, indecent or un-natural kind, or attempts to commit any such offence and does any act towards its commission ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Intoxication.

32. Any person subject to this Regulation who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned. Intoxication.

Offences in relation to persons in custody.

33. Any person subject to this Regulation who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Regulation mentioned. Offences punishable with death.

34. Any person subject to this Regulation who commits any of the following offences, that is to say : — Offences not punishable with death.

- (a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge ; or

- (b) without proper authority releases any prisoner or person placed under his charge or negligently suffers any such prisoner or person to escape ; or

- (c) being in military custody leaves such custody before he is set at liberty by proper authority ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Offences in relation to property.

Offences in
relation to
property.

35. Any person subject to this Regulation who commits any of the following offences, that is to say:—

- (a) commits extortion, or without proper authority exacts from any person carriage, portage, or provisions; or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property; or
- (c) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service; or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipment, instruments, tools, clothing or regimental necessities; or
- (e) loses by neglect anything mentioned in clause (d); or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to Government, or to any military mess, band or institution or to any person subject to military law, or serving with, or attached to, the army; or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

CHAPTER V—*Offences*—(continued).*Offences in relation to false documents and statements.*

36. Any person subject to this Regulation who commits any of the following offences, that is to say :—

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false ; or
- (b) in making any complaint under section 117, knowingly, makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact ; or
- (c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement ; or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;

False accusations and offences in relation to documents.

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

37. Any person having become subject to this Regulation who is discovered to have made a wilfully false

False answers on enrolment.

answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Offences in relation to Courts-martial.

Offences in
relation to
Courts-mar-
tial.

38. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or other thing which he may have been duly warned and called upon to produce or deliver up: or

(b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting; or

(c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true;

shall, on conviction by court-martial, be punished with imprisonment or with such less punishment as is in this Regulation mentioned.

Miscellaneous Military Offences.

Miscellane-
ous military
offences.

39. Any person subject to this Regulation who commits any of the following offences, that is to say:—

(a) being an officer or warrant officer, behaves in a manner unbecoming his position and character; or

CHAPTER V—*Offences*—(continued).

- (b) strikes or otherwise ill-treats any person subject to this Regulation being his subordinate in rank or position ; or
- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten, or otherwise maltreated or oppressed any person, or has disturbed any fair or market or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or
- (d) by defiling any place of worship, or otherwise intentionally insults the religion or wounds the religious feelings of any persons ; or
- (e) attempts to commit suicide and does any act towards the commission of such offence ; or
- (f) being below the rank of warrant officer when off duty, appears, without proper authority, in or about camp or cantonments or in or about, or when going to or returning from, any town or bazar, carrying a sword bludgeon or other offensive weapon ; or
- (g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or
- (h) neglects to obey any general or garrison or other orders ; or
- (i) is guilty of any act or omission which though not specified in this Regulation, is prejudicial to good order and Military discipline ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Regulation mentioned.

Attempts.

Attempts.

39 A. Whoever attempts to commit an offence punishable by this Regulation or to cause such an offence to be committed, and in such attempt does any act towards the commission, of the offence, may where no express provision is made by this Regulation for the punishment of such attempt, be punished with the punishment provided in this Regulation for such offence.

Abetment.

Abetment.

40. Every person subject to this Regulation who abets any offence punishable under this Regulation may be punished with the punishment provided in this Regulation for such offence.

Civil Offences.

Civil Offences committed outside the State or on active service in the State,

41. Every person subject to this Regulation who at any place beyond the State, or when on active service in the State, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Regulation, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say:—

(a) if the offence is one which would be punishable under the law of the State with death, or with imprisonment for life, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the State; and

(b) in other cases, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of the State, or such punishment as might be awarded to him in pursuance of this Regu-

CHAPTER V — *Offences*—(concluded).

lation in respect of an act prejudicial to good order and military discipline.

42. Every person subject to this Regulation who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Jammu and Kashmir State Ranbir Penal Code, or any of the following offences, against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence shall, subject to the provisions of this Regulation be liable to be tried by court-martial, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

Certain civil offences triable by military law.

CHAPTER VI.

PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Regulation, and convicted by court-martial, according to the scale following, that is to say: —

- (a) death;
- (b) imprisonment for life;
- (c) imprisonment either rigorous or simple for any term not exceeding fourteen years;
- (d) dismissal from the service;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowance for a period not exceeding two months;
- (f) reduction, in the case of a warrant officer, to a lower grade or class (if any) of war-

rant officer, or in the case of a non-commissioned officer, to a lower grade or to the ranks;

(g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;

(gg) in the case of officers, reprimand or severe reprimand;

(h) forfeitures and stoppages as follows, namely:—

(i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;

(ii) forfeiture of any military decoration or military reward;

(iii) forfeiture in the case of a person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;

(v) on active service forfeiture of pay and allowances for a period not exceeding three months.

Lower
punish-
ments.

44. Where in respect of any offence under this Regulation there is specified a particular punishment or such less punishment as is in this Regulation mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Regulation as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

CHAPTER VI—*Punishments*—(continued).

45. Where any person, subject to this Regulation and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment, other than flogging, as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

Field punishment.

46. Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

Position of field punishment in scale.

47. A sentence of a court-martial may award in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), (gg) and (h) of section 43.

Combination of punishments.

48. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say:—

Military Confinement.

(a) a time not exceeding one month if the term of imprisonment does not exceed six months;

(b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year;

(c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by court-martial to imprisonment for life, imprisonment, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Reduction of non-commissioned officers to ranks.

49A. When any person on active service has been sentenced by court-martial to dismissal or to imprisonment for life or imprisonment whether combined with dismissal or not, the prescribed officer may direct that

Retention in the ranks of a person convicted on active service.

such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment for life, or imprisonment, such service shall be reckoned as part of his term of imprisonment for life or imprisonment.

CHAPTER VII.

PENAL DEDUCTIONS.

Deductions
from pay
and allow-
ances.

50. The following penal deductions may be made from the pay and allowances of a person subject to this Regulation, that is to say:—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20 or of field punishment awarded by a court-martial or such officer.
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 20.
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Regulation committed by him;
- (cc) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence,

CHAPTER VII—*Penal deductions*—(continued).

such sum as may be specified by order of the Commander-in-Chief.

(d) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 43 ;

(e) any sum ordered by a court-martial to be stoped under section 43 ;

(f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessaries or military decoration, or to any buildings or property, as may be awarded by his commanding officer ;

(g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21 ;

Provided that the total deductions from the pay and allowances of a person subject to this Regulation made under clauses (e) to (g) both inclusive, shall not (except in the case of a person sentenced to dismissal), exceed in any one month one-half of his pay and allowances for that month.

Explanation—For the purposes of clauses (a) and (b) :—

(i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another ; may be reckoned as absence or custody for a day ;

(ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during

CHAPTER VII—*Penal deductions*—(concluded).

any portion of which the person was absent or in custody ; and

- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

Deductions
from public
money other
than pay.

51. Any sum authorized by this Regulation to be deducted from the pay and allowances of any person, may without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Remission
of
deductions.

52. Any deduction from pay and allowances authorized by this Regulation may be remitted in such manner and to such extent, and by such authority as may from time to time be prescribed.

Provision
for
dependants
of prisoners
of war.

52-A. (1) In the case of all persons subject to this Regulation being prisoners of war, whose pay and allowances have been forfeited under section 50, but in respect of whom a remission has been made under section 52, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2) Any payments hitherto made to dependants by way of deductions from pay and allowances which, if this section had been in force, could have been validly made are hereby validated.

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-Martial.

53. For the purposes of this Regulation there shall be four kinds of courts-martial, that is to say :—

Courts-martial and the kinds thereof.

- (1) general courts-martial ;
- (2) district courts-martial ;
- (3) summary general courts-martial ; and
- (4) summary courts-martial.

54. A general court-martial may be convened by His Highness, or by an Officer empowered in this behalf by warrant of His Highness.

Power to convene general courts-martial.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Power to convene district courts-martial.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 54 or section 55.

57. A general court-martial shall consist of not less than seven officers unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.

Composition of general courts-martial.

58. A district court-martial shall consist of not less than three officers.

Composition of district courts-martial.

59. Whenever a general court-martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available and such statement shall be conclusive evidence of the fact so stated.

Convening order to state if larger number of officers is not available.

CHAPTER VIII—*Courts-Martial*—(continued).

Composi-
tion of
general or
district
courts-
martial.

60. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, be either State or Indian Officers, or partly State and partly Indian Officers.

Claim to
trial by
State
officers.

61. (1) Any person subject to this Regulation who is under orders for trial by general or district court-martial may claim to be tried by State Officers.

(2) In all cases the right of making such claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf and, when such a claim is made, the court shall be constituted accordingly.

Convening
of summary
general
courts-
martial.

62. The following authorities shall have power to convene a summary general court-martial, namely:—

- (a) an officer empowered in this behalf by an order of His Highness;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Highness' troops upon active service when, in his opinion, it is not practicable with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composi-
tion of
summary
general
court-
martial.

63. A summary general court-martial shall consist of not less than three officers.

Summary
courts-
martial.

64. (1) A summary court-martial may be held:—

- (a) by the Commanding Officer of any corps or department of His Highness' forces or of any detachment of those forces;

CHAPTER VIII—*Courts-Martial*—(continued).

(b) by the commanding officer of any corps or detachment to which details subject to this Regulation are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

65. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers which it is by this Regulation required to consist, it shall be dissolved; Dissolution of courts.

Provided that a general court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-Martial.

66. When any person subject to this Regulation has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections. Prohibition of second trial.

67. No trial by court-martial of any person subject to this Regulation for any offence, other than an offence of mutiny, desertion or fraudulent enrolment, shall be commenced after the expiration of three years from the date of such offence and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enrolment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for Limitation of trial.

CHAPTER VIII—*Courts-Martial*—(continued).

not less than three years with any portion of His Highness' forces.

Explanation.—For the purposes of this section "mutiny" means any of the offences specified in clauses (a), (b) and (c) of section 27.

Place of trial.

68. Any person subject to this Regulation who commits any offence against it may be tried and punished for such offence in any place whatever.

Adjustment of the Jurisdiction of Courts-Martial and Criminal Courts.

Order in case of concurrent jurisdiction.

69. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial to direct that the accused person shall be detained in military custody.

Power of criminal court to require delivery of offender.

70. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to His Highness.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of His Highness whose order upon such reference shall be final.

Trial by court-martial no bar to subsequent trial by criminal court.

71. (1) Notwithstanding anything contained in section 26 of the General Clauses Regulation 1977 or in section 403 of the Code of Criminal Procedure 1969, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts.

CHAPTER VIII—*Courts-Martial*—(continued).

(2) If a person sentenced by a court martial in pursuance of this Regulation to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment have regard to the military punishment he may already have undergone.

Powers of Courts-Martial.

72. A general or summary general court-martial shall have power to try any person subject to this Regulation for any offence made punishable therein, and to pass any sentence authorized by this Regulation.

Powers of
general and
summary
general
courts-
martial.

73. A district court-martial shall have power to try any person subject to this Regulation other than an officer for an offence made punishable therein, and to pass any sentence authorized by this Regulation other than a sentence of death, or imprisonment for life or imprisonment for a term exceeding two years.

Powers of
district
court-
martial.

74. A summary court-martial may try any offence punishable under any of the provisions of this Regulation.

Offences
triable by
summary
court-
martial.

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33, 41 or 42 or

(b) any offence against the officer holding the court.

75. A summary court-martial may try any person subject to this Regulation and under the command of the officer holding the court, except an officer or warrant officer.

Persons
triable by
summary
court-
martial.

CHAPTER VIII — *Courts-Martial*—(continued).

Sentences
awardable
by summary
court-
martial.

76. A summary court-martial may pass any sentence which can be passed under this Regulation, except a sentence of death or imprisonment for life or of imprisonment for a term exceeding 3 months.

Procedure of trials by Court-Martial.

President.

77. At every general, district or summary general court-martial the senior member shall sit as president.

Judge
Advocate.

78. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be a person appointed by the convening officer.

Superin-
tending
officer.

79. A State officer of not less than four years' service hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Indian officers which is not attended by a judge advocate.

Challenges.

80. (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by an officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

CHAPTER VIII—*Courts-Martial* — (continued).

81. (1) Every decision of a court-martial shall be passed by an absolute majority of votes ; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused. Voting of members.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge-advocate or superintending officer before the commencement of the trial. Oaths of president & members.

83. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form. Oaths of witnesses.

84. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. Summoning witness and production of documents.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Evidence Regulation 1977, sections 123 and

CHAPTER VIII—*Courts-Martial* —(continued).

124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, high court or court of session, wanted for the purpose of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, or court.

Commis-
sions.

85. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the General Staff Officer (or the Judge Advocate General when the trial is made on active service outside the State), in order that a commission to take the evidence of such witness may be issued.

(2) The General Staff Officer or the Judge Advocate General as the case may be, may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in British India or in the territories of any prince or chief in India, the commission may be issued in the manner prescribed in this behalf.

(4) The magistrate to whom the commission is issued, or, if he is the district magistrate, he or such

CHAPTER VIII—*Courts-Martial* (continued).

magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under the Code of Criminal Procedure, 1969.

(5) and (6) Omitted.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such magistrate by pleader or, except in the case of an accused person in custody, in person and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the General Staff Officer or the Judge Advocate General as the case may be.

(10) On receipt of a commission and deposition returned under sub-section (9), the General Staff Officer or the Judge Advocate General shall forward the same to the court at whose instance the commission was issued, or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a

CHAPTER VIII—*Courts-Martial*—(continued).

specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression "Judge Advocate General" means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

Conviction
of one offence
permissible
on charge of
another.

86. (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest mis-appropriation or conversion to his own use of property entrusted to him or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1969, were applicable.

(5) A person charged before a court-martial with any other offence under this Regulation may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(6) A person charged before a court-martial with any offence under this Regulation may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

CHAPTER VIII—*Courts-Martial*—(continued).

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court. Majority requisite to sentence of death.

Evidence Before Courts-Martial.

88. The Evidence Regulation 1977 shall, subject to the provisions of this Regulation, apply to all proceedings before a court-martial. General rule as to evidence.

89. A court-martial may take judicial notice of any matter within the general military knowledge of the members. Judicial notice.

90. In any proceeding under this Regulation any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown. Presumption as to signatures.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Regulation, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper. Enrolment paper.

91-A. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Highness' Forces, or respecting the circumstance of any person not having served in or belonged to any portion of His Highness' Forces, if purporting to be signed by or on behalf of His Highness, or the Commander-in-Chief or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document. Presumption as to certain documents.

(2) An Army List or Gazette purporting to be published by authority shall be evidence of the status and

CHAPTER VIII—*Courts-Martial*—(continued).

rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, battalion or arm or branch of the service to which such officers or warrant officers belong.

(3) Where a record is made in any regimental book in pursuance of this Regulation or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Regulation is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a provost-marshal, assistant provost-marshal or other officer, or any portion of His Highness' Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Highness' Forces and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(6) When any person subject to this Regulation is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or

CHAPTER VIII—*Courts-Martial*—(continued).

thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Regulation.

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

Reference
by accused
to Govern-
ment officer

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

93. (1) When any person subject to this Regulation has been convicted by a court-martial of any offence, such court martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

Evidence of
previous con-
victions and
general
character.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed as of his

CHAPTER VIII—*Courts-Martial*—(continued).

own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and revision of finding and sentences.

Finding & sentence invalid without confirmation.

94. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Regulation.

Power to confirm finding and sentence of general court martial.

95. The findings and sentence of general courts-martial may be confirmed by His Highness or by any officer empowered in this behalf by warrant of His Highness, but a sentence of death or imprisonment for life shall require to be confirmed by His Highness.

Power to confirm finding and sentence of district court martial.

96. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court martial, or by any officer empowered in this behalf by warrant of any such officer.

Contents of warrant issued under section 95 or section 96.

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Confirmation of finding and sentence.

98. (1) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer or if the convening officer so directs by an authority superior to the convening officer in the following cases except the cases mentioned in sub-section (3) and (4):—

- (a) in the case of the trial of an officer.
- (b) in the case of an acquittal or a sentence of imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the convening officer.

(2) Save as provided in sub-section (1) a sentence passed by a summary general court-martial shall not require to be confirmed but may be carried out forthwith.

CHAPTER VIII — *Courts-Martial* — (continued).

(3) The sentence of death or imprisonment for life or imprisonment for a term exceeding seven years shall require to be confirmed by His Highness.

(4) The confirmation of His Highness shall also be necessary in the case of a sentence passed on a State Officer.

Provided that sub-section (3) and (4) will not be applicable in cases where the offence is committed on active service outside the State and it is not possible to get the sentence confirmed by His Highness, with due regard to military discipline.

99. Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the sentence of a court martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial.

Power of confirming officer to mitigate remit or commute sentence.

99-A. When any person subject to this Regulation is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board-ship may be confirmed and executed in like manner as is if such person had been tried at the port of disembarkation.

Confirmation of finding and sentence on board-ship.

100. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer ; and on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or if a district court-martial, of three officers.

CHAPTER VIII—*Courts-Martial*—(continued).

Finding and
sentence of a
summary
court-martial.

101. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

Transmis-
sion of pro-
ceedings of
summary
court-martial.

102. The proceedings of every summary court-martial shall, without delay, be forwarded to the Army Minister or to the prescribed officer; and such officer, or the Commander-in-Chief, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

Substitua-
tion of valid
for invalid
sentence

103. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence.

Provided, that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

Provision
in the case of
accused being
unatic.

103-A. (1) Whenever in the course of a trial by court-martial it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

CHAPTER VIII—*Courts-Martial*—(concluded).

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for orders of His Highness.

(4) On receipt of a report under sub-section (3), His Highness may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention the prescribed officer may —

(a) if such person is in custody under sub-section (3) on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4) on a certificate such as is referred to in section 473 of the Code of Criminal Procedure 1969,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to His Highness.

CHAPTER IX.

EXECUTION OF SENTENCES.

Form of sentence of death.

104. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender, shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Imprisonment to be in military custody.

105. Whenever any person is sentenced under this Regulation to simple imprisonment, such sentence shall be carried out by confinement in military custody.

Commencement of sentence of imprisonment for life or imprisonment.

106. Whenever any person is sentenced under this Regulation to imprisonment for life or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

Execution of sentence of imprisonment for life or imprisonment.

107. Whenever any sentence of imprisonment for life or rigorous imprisonment is passed under this Regulation, or whenever any sentence so passed is commuted to imprisonment for life or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant:

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody ;

Provided further that, on active service a sentence of rigorous imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

Execution of sentence of imprisonment in special cases.

108. Whenever, in the opinion of an officer commanding a Brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of sec-

CHAPTER IX—*Execution of Sentences*—(concluded).

ton 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

108-A. Omitted.

109. Whenever an order is duly made under this Regulation setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer incharge of the prison in which such person is confined.

Communications of certain orders to Civil prison officers.

110. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement.

111. Omitted.

111-A. When a sentence of fine is imposed by a court-martial under section 41 or section 42, whether the trial was held within the State or not, a copy of such sentence signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in the State, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1969, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

Execution of sentence of fine.

CHAPTER X.

PARDONS AND REMISSIONS.

112. (1) When any person subject to this Regulation has been convicted by a court-martial of any offence, His Highness, or Commander-in-Chief or in the case of a

Pardons and remissions.

CHAPTER X—*Pardons and remissions*—(concluded).

sentence which he could have confirmed or which did not require confirmation, the prescribed officer may,

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded;

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Regulation:

(2) If any conditions on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided, that, in the case of a person sentenced to imprisonment for life or imprisonment, such person shall under-go only the unexpired portion of his sentence.

(3) When under the provisions of section 49 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section be treated as a punishment awarded by sentence of a court-martial.

CHAPTER XI.

RULES.

Power to
make rules.

113. (1) His Highness may make rules for the purpose of carrying into effect the provisions of this Regulation.

CHAPTER XI—*Rules*—(continued).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (a) the discharge from the service of persons subject to this Regulation;
- (b) the amount and incidence of fines to be imposed under section 21;
- (bb) the specification of the punishments which may be awarded as field punishments under sections 20 and 45;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;
- (d) the convening and constituting of courts-martial;
- (e) the adjournment, dissolution and sittings of courts-martial;
- (f) the procedure to be observed in trials by courts-martial;
- (g) the confirmation and revision of the findings and sentences of courts-martial;
- (h) the carrying into effect sentences of courts-martial;
- (i) the forms of orders to be made under the provisions of this Regulation relating to courts-martial, imprisonment for life, or imprisonment;
- (ii) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 52A, and the due carrying out of such decisions; and

CHAPTER XI—*Rules*—(concluded).

(j) any matter in this Regulation directed to be prescribed.

(3) All rules made under this Regulation shall be published in the Jammu and Kashmir Government Gazette, and, on such publication, shall have effect as if enacted in this Regulation.

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS
AND LUNATICS.

Property
of deceased
persons and
deserters.

114. The following rules are enacted respecting the disposal of the property of every person subject to this Regulation who dies or deserts:—

(1) The commanding officer of the corps, detachment or department to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in the camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules; and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given

CHAPTER XII—*Property of Deceased persons, Deserters and Lunatics*—(continued).

security for the payment of the regimental or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the regimental and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies from the proceeds of the sale and from any pay and the allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of a deserter, the surplus (if any) shall forthwith be remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Highness, unless the deserter shall in the meantime have surrendered or been apprehended.

Explanation—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Meaning
of desertion.

CHAPTER XII—*Property of Deceased persons, Deserters and Lunatics*—(concluded).

Disposal
of certain
property
without
production
of probate,
etc.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same to the Government from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Application
of section
114 to luna-
tics, or
missing on
active
service.

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Regulation becoming insane or, who, being on active service, is officially reported missing.

Provided that in the case of a person so reported missing no action shall be taken under sub-section (2) to (5), inclusive, of the said section, until one year has elapsed from the date of such report.

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

Complaints
against
officers.

117. (1) Any person subject to this Regulation who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section

CHAPTER XIII—*Miscellaneous*—(continued).

(1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

118. (1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

Privileges
of persons at-
tending
courts-
martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

119. (1) No person subject to this Regulation shall, so long as he belongs to His Highness' Forces be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

Exemption
from arrest
for debt.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered, costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Regulation, nor any animal used by him for the discharge of

Property
exempted
from attach-
ment.

CHAPTER XIII—*Miscellaneous*—(continued).

his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

121. Omitted.

Priority of
hearing by
courts of
cases in which
persons
subject to
Regulations
are concern-
ed.

122. (1) On the presentation to any court by or on behalf of any person subject to this Regulation of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority, shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

CHAPTER XIII—*Miscellaneous*—(continued).*Deserters and Military Offenders.*

123. (1) Whenever any person subject to this Regulation deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person, for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody. Capture of
deserters.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Regulation and to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

124. (1) Any person subject to this Regulation who is charged with an offence may be taken into military custody. Arrest by
military au-
thority.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay be investigated by the proper military authority, and as soon as may be, either proceedings shall be taken for punishing the offence, or such persons shall be discharged from custody.

125. Whenever any person subject to this Regulation, who is accused of any offence under this Regulation, is within the jurisdiction of any Magistrate or police-officer, such magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer. Arrest by
civil autho-
rities.

126. (1) When any person subject to this Regulation has been absent without due authority from his duty Inquiry on
absence of
person

CHAPTER XIII—*Miscellaneous*—(continued).

subject to
Regulation.

for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Regulation, be deemed to be a deserter.

Disposal of Property.

Order for
custody and
disposal of
property
pending trial
in certain
cases.

126-A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for
disposal of
property re-
garding
which offence
committed.

126-B. (1) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the Brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property, or document, produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

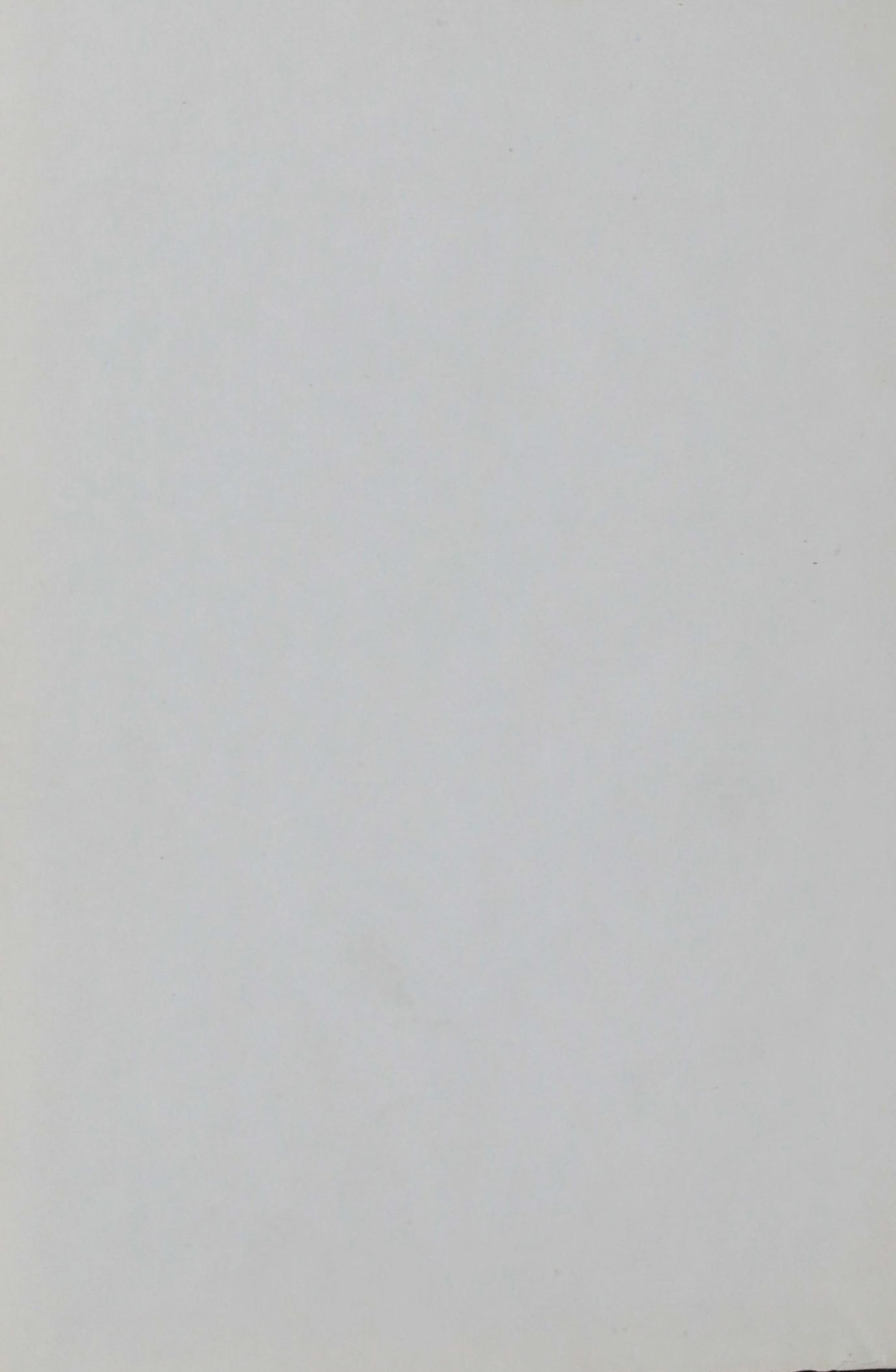
CHAPTER XIII—*Miscellaneous*—(continued).

(2) Where any order has been made under subsection (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within the State or not be sent to a magistrate in any district in which such property for the time being is, and such magistrate shall hereupon cause the order to be carried into effect as if it was an order passed by such magistrate under the provisions of the Code of Criminal Procedure 1969.

Explanation.—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

127. The Rules for the punishment of crime is hereby repealed ; Repeal.

Provided that all warrants and orders issued and persons enrolled or attested under its provisions shall be deemed to have respectively been issued, enrolled or attested under this Regulation.



THE JAMMU AND KASHMIR ARMY REGULATION RULES.

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JAMMU AND KASHMIR ARMY REGULATION RULES.

CHAPTER I.

PRELIMINARY.

1. These rules may be cited as the "Jammu and Kashmir Army Regulation Rules". Short title.

2. In these rules, unless there is anything repugnant in the subject or context, — Definitions.

(a) "Proper military authority", when used in relation to any power, duty, act or matter, means such military authority as, in pursuance of the Regulations of the Army or the custom of the service, exercises or performs that power or duty or is concerned with that act or matter.

(b) "The Regulation" means the Jammu and Kashmir Army Regulation 1989.

3. Any report or application directed by these rules to be made to a superior authority, or proper military authority, shall be made in writing through the proper channel, unless the authority, on account of military exigencies or otherwise, dispenses with the writing. Reports and Applications.

4. (a) The forms set forth in the appendices to these rules, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient, but a deviation from such forms will not, by reason only of such deviation, render any charge, warrant, order, proceedings or other document invalid. Forms in Appendices.

(b) An omission of any such form will not, by reason only of such omission, render any act or thing invalid.

(c) The notes to and instructions in, the forms will be considered as instructions which it is expedient to follow in all cases to which such notes and instructions apply, but shall not have the force of rules.

CHAPTER I—*Preliminary*—(concluded).

Exercise of
power vested
in holder of
military
office.

5. Any power or jurisdiction given to, and any act or thing to be done by, to, or before any person holding any military office may be exercised by, or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.

Cases un-
provided for.

6. In any case not provided for by these rules such course will be adopted as appears best calculated to do justice.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolling
officers.

7. The following officers shall be "enrolling officers" for the purposes of section 8 of the Regulation:—

- | | | |
|---|---|--|
| (i) All recruiting officers. | } | As regards all persons. |
| (ii) All assistant recruiting officers. | | |
| (iv) The officer commanding a corps. | } | As regards persons enrolled in that corps. |
| (iv-a) The officer commanding a regiment or a Battalion of a corps. | | |
| (v) The officer commanding a Depot of a corps. | | |
| (vi) The officer commanding a battery. | } | As regards persons enrolled in an artillery corps. |
| (ix) The officer commanding an artillery depot. | | |
| (x) The officer commanding a unit to which the Temple Guards is attached. | } | As regards persons enrolled in Temple Guard. |

CHAPTER II—*Enrolment and Attestation*—(continued).

- | | | |
|--|---|---|
| (xi-a) The officer commanding a Mechanical Transport Company or repair shop. | } | As regards persons enrolled in supply and Transport corps. |
| (xi) The officer incharge supplies or transport of a station. | | |
| (xiv) The officer commanding a hospital. | } | As regards persons enrolled in the Hospital Corps. |
| (xviii) The officer incharge of any division or branch of any department. | | |
| (xx) The officer incharge (<i>i. e.</i> Adjutant Quarter-Master General) of a fort armament establishment | } | As regards persons enrolled in an artillery corps as fort armament lascars. |
| (xxi) The officer incharge forts. | | |
| (xxii) The officer commanding a cavalry as well as officer commanding its Depot. | } | As regards persons enrolled in the corps of cavalry. |
| (xxii-a) The officer commanding the Training School or Training Battalion. | | |
| | } | As regards persons enrolled in that corps and for other units. |
| | | |

8. All combatants, and the following enrolled persons other than combatants, shall, when reported fit for duty, be attested as provided in section 12 of the Regulation :—

Persons to be attested.

- (i) Enrolled personnel of the Hospital Corps except persons belonging to the general section of that corps.

CHAPTER II—*Enrolment and Attestation*—(continued).

(ii) Omitted.

(iii) Persons serving in any Corps or Department who may be selected for non-commissioned rank.

Oath or affirmation to be taken on attestation.

9. (a) The oath or affirmation to be taken on attestation will be in one of the following forms or in such other form to the same purport as the attesting officer ascertains to be in accordance with the religion of the person to be attested, or otherwise binding on his conscience.

Form of oath.

I _____ do swear that I will be faithful and bear true allegiance to His Highness the Maharaja Bahadur, His heirs and successors, and that I will, as in duty bound, honestly and faithfully serve in His Highness' Forces and go wherever I may be ordered by land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life. So help me God.

The second person may, when necessary, be substituted for the first in this form of oath, and the words "So help me God" omitted or varied.

Form of affirmation.

I _____ solemnly affirm in the presence of Almighty God that I will be faithful and bear true allegiance to His Highness the Maharaja Bahadur, His heirs and successors, and that I will, as in duty bound, honestly and faithfully serve in His Highness' Forces and go wherever I may be ordered by land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life.

(b) The oath or affirmation prescribed in this rule shall, whenever practicable, be administered by the commanding officer of the person to be attested in the manner described in section 12 of the Regulation. If is not so administered, it may be administered by

CHAPTER II—*Enrolment and Attestation*—(concluded).

magistrate or such officer as is hereinafter indicated ; that is to say :—

A recruiting officer or assistant recruiting officer.

The officer commanding a station.

CHAPTER III.

DISMISSAL AND DISCHARGE.

10. Every person enrolled under the Regulation shall, when entitled under the conditions of his enrolment to be discharged, be so discharged with all convenient speed. Discharge not to be delayed.

11. (a) Every Indian officer or warrant officer who is dismissed or discharged shall be furnished by his commanding officer with a certificate setting forth, in respect of such Indian officer or warrant officer, the same matters as are required to be set forth in a certificate furnished under section 17 of the Regulation to a person enrolled thereunder who is dismissed or discharged. A certificate furnished under the provisions of this rule or of section 17 of the Regulation, as the case may be, is hereinafter called a "discharge certificate". Discharge certificates.

(b)

* * * *

(c) A discharge certificate may be furnished either by personal delivery thereof by or on behalf of the commanding officer to the person dismissed or discharged or by its transmission by post to such person.

12. The dismissal of a person subject to the Regulation, whose dismissal otherwise than by sentence of a court-martial is duly authorised, or the discharge of a person so subject whose discharge is duly authorised, shall be carried out by the commanding officer of such person with all convenient speed. The authority competent to authorise such dismissal or discharge may, when authorising the dismissal or discharge, specify any future Date from which discharge, or dismissal otherwise than by sentence of court-martial, takes effect.

CHAPTER III—*Dismissal and Discharge*—(continued).

date from which it shall take effect; provided that if no such date is specified the dismissal or discharge shall take effect from the date on which it was duly authorised, or from the date on which the person dismissed or discharged ceased to do military duty, whichever is the later date.

Authorities empowered to authorize discharge.

13. Instructions as to the authorities empowered to authorise the discharge of persons subject to the Regulation, and the procedure to be observed in each case, are contained in the following table. In this table "Commanding Officer" means the officer commanding the corps or department to which the person to be discharged belongs. It also includes as regards persons under their command, the officers specified in items (iii), (iva) to (xviii), and (xx) to (xxiia) of Rule 7. Any power conferred by this rule on any authority may be exercised by any higher authority.

Table.

Class.	Cause of discharge.	Competent authority to authorise discharge.	Special Instructions.
Officers and Warrant Officers.	(i) On transfer to the pension establishment.		
	(a) At his own request before attaining the age limit fixed for compulsory retirement.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	Discharge should be carried out within 2 months of application unless war is imminent or existing.
	(b) On attaining the age limit fixed for compulsory retirement, unless retained in the active list as a special case for a further specified period with the sanction of His Highness.	For State Officers—Army Minister. For Indian Officers and Warrant Officers.—Chief of the Military Staff.	Commissioned Officers who consider it desirable to retain on the active list, an officer who is desirous of continuing to serve beyond the date on which he would ordinarily be retired should forward the application to that effect 6 months before that date. In all other cases discharge of an Indian Officer should be carried out in accordance with the provision of Rule II.

CHAPTER III—*Dismissal and discharge*—(continued).

Class.	Cause of discharge.	Competent authority to authorities discharge.	Special Instruction.
Officers and Warrant Officers.	(ii) On resignation of his Commission or Warrant.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	To be carried out only on the recommendation of an Invaliding Board.
	(iii) Having been found medically unfit for further service.	For State Officers. Army Minister. For Indian Officers and Warrant Officers.—Chief of the Military Staff.	
	(iv) On transfer to the pension establishment otherwise than under items (i) and (iii).	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
	(v) With gratuity otherwise than at his own request or under item (iii).	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
	(vi) His service being no longer required.	For State Officers—His Highness. For Indian Officers and Warrant Officers.—Army Minister.	
Persons enrolled under the Regulation who have been attested.	From vii to xi (both inclusive) omitted.		
	(xii) On terminating service (with or without pension or gratuity).	.....	To be carried out in accordance with the conditions of his enrolment and with section 18 of the Regulation and Rules 10, 11 and 12.
	At his own request, having fulfilled the conditions of his enrolment.	Brigade Commander.	Applicable to persons whose discharge on completion of the period for which they were enrolled is not obligatory, and to persons dischargeable under item (xii) (a) who have been allowed to continue to serve.
	(xiii) On completion of service (with or without pension or gratuity).		To be carried out in accordance with the conditions of his enrolment and with section 18 of the Regulation and Rules 10, 11 and 12.

CHAPTER III—*Dismissal and discharge*—(continued).

Class.	Cause of discharge.	Competent authority to authorise discharge.	Special instructions.
Persons enrolled under the Regulation who have been attested.— <i>contd.</i>	(a) Otherwise than at his own request having reached the stage at which discharge may be enforced.	Persons below the rank of Havildar (or equivalent rank)—Brigade Commander. Persons of the rank of Havildar (or equivalent rank)—Chief of the Military Staff.	(a) Applicable to persons who have earned pension or gratuity whose discharge otherwise than at their own request may, under the conditions of their enrolment, be enforced after a specified period of service.
	(b) On termination of engagement.	Brigade Commander.	(b) Applicable to persons whose discharge on termination of their engagement is, under the conditions of their enrolment, obligatory.
	(c) Omitted.		
	(d) Having reached age for discharge.	Brigade Commander.	(d) Applicable to persons whose discharge is obligatory on reaching the age fixed under the conditions of their enrolment.
	(xiv) Having been found medically unfit for further service.	" "	To be carried out only on the recommendation of an Invaliding Board.
	(xv) Having re-entered the service after being dismissed or discharged, without, at the time of such re-entry, stating the fact of his previous dismissal or discharge, or showing his certificate of dismissal or discharge.	" "	
	(xvi) Not being a good rider.	" "	Only applicable to persons enrolled as combatants in a mounted corps and whose duties require them to be mounted. Liability to discharge under this item ceases on completion of three years' service from date of enrolment.
	(xvii) On transfer to the pension establishment, or with gratuity, otherwise than under items (xii), (xiii) or (xiv).	Chief of the Military Staff.	

CHAPTER III—*Dismissal and discharge*—(concluded).

Class	Cause of discharge.	Competent authority to authorise discharge.	Special instructions.
<div>Persons enrolled under the Regulation but not attested.</div> <div>Persons enrolled under the Regulation who have been attested.</div>	(xvii-a) On compassionate grounds before fulfilling the conditions of his enrolment.	Chief of the Military Staff.	The Chief of the Military Staff will exercise this power only when he is satisfied as to the <i>bona fides</i> of the application and when the application discloses the existence of compassionate grounds.
	(xviii) His service being no longer required.	" "	
	(xix) On compassionate grounds before fulfilling the conditions of his enrolment.	Brigade Commander.	The Brigade Commander will exercise this power only when he is satisfied as to the <i>bona fides</i> of the application and when the application discloses the existence of compassionate grounds. Recruits who are considered unlikely to become efficient soldiers will be dealt with under this item.
	(xx) All other classes of discharge.	Commanding Officer.	

CHAPTER IV.

INVESTIGATION OF CHARGES AND TRIAL BY COURT-MARTIAL.

SECTION I—INVESTIGATION OF CHARGES AND REMAND FOR TRIAL.

Power of Commanding Officer.

14. Every commanding officer shall take care that a person under his command, when charged with an offence, is not detained in custody for more than forty eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him impracticable with due regard to the public

Duty of commanding officer as to investigation of charge for offence.

CHAPTER IV—*Investigation of charges and trial by Court-martial* —(continued).

service. Every case of a person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the commanding officer to the officer to whom application would be made to convene a general or district court-martial for the trial of the person charged :

Provided that, Sunday shall be excluded in reckoning the periods of forty-eight hours specified in this rule.

Disposal of
the charge or
adjournment
for taking
down the
summary of
evidence.

15. (a) Every charge against a person subject to the regulation shall be heard in the presence of the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witnesses and make any statement in his defence.

(b) The commanding officer shall dismiss a charge brought before him if, in his opinion, the evidence does not show that some offence under the Regulation has been committed, and may do so if, in his discretion, he thinks the charge ought not to be proceeded with.

(c) At the conclusion of the hearing of a charge if the commanding officer is of opinion that the charge ought to be proceeded with, he shall, without unnecessary delay, either—

- (1) dispose of the case summarily ; or
- (2) refer the case to the proper superior authority ; or
- (3) adjourn the case for the purpose of having the evidence reduced to writing ; or
- (4) if the accused is under the rank of warrant officer, order his trial by summary Court-martial.

Provided that the commanding officer shall not order trial by summary court-martial without reference to the officer empowered to convene a district court-martial or on active service a summary general court-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

martial for the trial of the alleged offender unless either :—

(i) the offence is one which he can try by summary court-martial without reference to that officer ; or

(ii) he considers that there is grave reason for immediate action and such reference cannot be made without detriment to discipline.

(d) Where the case is adjourned for the purpose of having the evidence reduced to writing, at the adjourned hearing the evidence of the witnesses who were present and give evidence before the commanding officer, whether against or for the accused, shall be taken down in writing in the presence and hearing of the accused before the commanding officer or such officer as he directs.

(e) The accused may put questions in cross-examination to any witness, and the question with the answers shall be added in writing to the evidence taken down.

(f) The evidence of each witness when taken down, as provided in (d) and (e), shall be read over to him, and shall be signed by him, or if he cannot write his name, shall be attested by his mark and witnessed. Any statement of the accused material to his defence shall be added in writing and read over to him.

(g) The evidence of the witnesses and the statement (if any) of the accused shall be recorded in English or Urdu. If the witness or accused, as the case may be, does not understand English or Urdu the evidence or statement, as recorded, shall be interpreted to him in a language which he understands.

16. (a) The evidence and statement (if any) taken down in writing in pursuance of Rule 15 (in these rules referred to as the summary of evidence) shall be considered ^{by the commanding officer of the accused.}

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

ed by the commanding officer, who thereupon shall either :—

(1) remand the accused for trial by court-martial;
or

(2) refer the case to the proper superior military authority ; or

(3) if he thinks it desirable, rehear the case and dispose of it summarily.

(b) If the accused is remanded for trial by court-martial, the commanding officer shall without unnecessary delay either assemble a summary court-martial (after referring to the officer empowered to convene a district court-martial or on active service a summary general court-martial when such reference is necessary) or apply to the proper military authority to convene a court-martial, as the case requires.

(c) The summary of evidence, or a true copy thereof, shall be laid before the court-martial before which the accused is tried on the assembly of the court.

Summary award of punishment by commanding officer. 17. When the commanding officer has once awarded punishment for an offence, he cannot afterwards increase the punishment for that offence.

Framing charges.

Charge-sheet and charge. 18. (a) A charge sheet shall contain the whole issue or issues to be tried by a court-martial at one time.

(b) A charge means an accusation contained in a charge-sheet, that a person amenable to military law has been guilty of an offence.

(c) A charge-sheet may contain one charge or several charges.

Commencement of charge-sheet. 19. Every charge-sheet shall begin with the name and description of the person charged, and state in the

CHAPTER IV.—*Investigation of charges and trial by Court-martial*—(continued).

case of an officer, his rank, name, and corps, or department (if any), and in the case of a warrant officer, non-commissioned officer, soldier or other enrolled person, his number, rank, name, and corps or department (if any). When the accused person does not belong to the regular forces the charge-sheet shall show by the description of him, or directly by an express averment, that he is amenable to the military law in respect of the offence charged.

20. (a) Each charge shall state one offence only, and in no case shall an offence be described in the alternative in the same charge. Contents of charge.

(b) Each charge shall be divided into two parts :—

(1) The statement of the offence; and

(2) the statement of the particulars of the act, neglect, or omission constituting the offence.

(c) The offence shall be stated, if not a civil offence, in the words of the Regulation, and if a civil offence, in such words as sufficiently describe that offence, but not necessarily in technical words.

(d) The particulars shall state such circumstances respecting the alleged offence as will enable the accused to know what act, neglect, or omission is intended to be proved against him as constituting the offence.

(e) The particulars in one charge may be framed wholly or partly by a reference to the particulars in another charge and in that case so much of the latter particulars as is so referred to shall be deemed to form part of the first mentioned charge as well as of the other charge.

(f) Where it is intended to prove any facts in respect of which any deduction from pay and allowances can be awarded as a consequence of the offence charged, the particulars shall state those facts, and the sum of the loss or damage it is intended to charge.

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CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Validity
of charge
sheet.

21. (a) A charge-sheet shall not be invalid by reason only of any mistake in the name or description of the person charged, if he does not object to the charge-sheet during the trial, and it is not shown that injustice has been done to the person charged.

(b) In the construction of a charge-sheet or charge there shall be presumed in favour of supporting the same every proposition which may reasonably be presumed to be impliedly included though not expressed therein.

Preparation for defence by accused person.

Opportunity
of accused
to prepare
defence.

22. An accused person for whose trial a court-martial has been ordered to assemble shall be afforded proper opportunity of preparing his defence, and shall be allowed free communication with his witnesses, and with any friend or legal adviser whom he may wish to consult.

Warning of
accused, for
trial.

23. (a) The accused before he is arraigned shall be informed by an officer of every charge on which he is to be tried; and also that, on his giving the names of witnesses whom he desires to call in his defence, reasonable steps will be taken for procuring their attendance, and those steps shall be taken accordingly.

The interval between his being so informed of the charges against him and his arraignment must be such as to allow him to have his witnesses present, and to consider his defence.

(b) The officer at the time of so informing the accused shall give him a copy of the charge-sheet and a vernacular translation of the same if it is in English and shall, if necessary, read and explain to him the charges brought against him.

(c) If he desires it, a list of the names, rank and corps (if any) of the officers who are to form the court, and where officers in waiting are named, also of these officers, will, in courts-martial other than summary courts-martial, be given to the accused.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(d) If it appears to the court that the accused is liable to be prejudiced at his trial by any non-compliance with this rule, the court shall take steps, and if necessary, adjourn to avoid the accused being so prejudiced.

24. Any number of accused persons may be tried together for an offence charged to have been committed by them collectively, but in such case notice of the intention to try the accused persons together shall be given to each of the accused at the time of his being informed of the charge, and any accused person may claim, either by notice to the authority convening the court, or, when arraigned before the court, by notice to the court to be tried separately, on the ground that the evidence of one or more of the other accused persons proposed to be tried together with him will be material to his defence: the convening authority or court, if satisfied that the evidence will be material, and if the nature of the charge admits of it, shall allow the claim, and such accused person shall be tried separately.

Joint trial of several accused persons.

Exception from rules.

25. Where it appears to the officer convening a court martial, or to the senior officer on the spot, that military exigencies, or the necessities of discipline, render it impossible or inexpedient to observe any of the Rules 15 (D), (E), (F), (G), 16, 22 and 23, he may, by order under his hand, make a declaration to that effect, specifying the nature of such exigencies or necessities, and thereupon the trial or other proceedings shall be as valid as if the rule mentioned in such declaration had not been contained herein; and the declaration may be made with respect to any or all of the rules above in this rule mentioned in the case of the same court-martial.

Suspension of rules on the ground of military exigencies or necessities of discipline.

Provided that the accused shall have full opportunity of making his defence, and shall be afforded every facility for preparing it which is practicable, having due regard to the said exigencies or necessities.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Alternative procedure.

Alternative procedure.

23. When an accused person is remanded for trial by general or district court martial the procedure before and during trial shall be that ordered in section 2 of this Chapter, and when an accused person is remanded for trial by summary court martial that ordered in section 3 of this Chapter. Section 4 is equally applicable to all trials by general, district and summary courts-martial.

SECTION 2.—GENERAL AND DISTRICT COURT-MARTIAL.

Convening the court.

Convening of general and district court-martial.

27. (a) An officer before convening a general or district court martial shall first satisfy himself that the charges to be tried by the court are for offences within the meaning of the Regulation, and that the evidence justifies a trial on those charges, and if not so satisfied, shall order the release of the accused, or refer the case to superior authority.

(b) He shall also satisfy himself that the case is a proper one to be tried by the description of court-martial he proposes to convene.

(c) The officer convening a court martial shall appoint or detail the officers to form the court, and may also appoint or detail such waiting officers as he thinks expedient. He may also, where he considers the services of an interpreter to be necessary, appoint or detail an interpreter to the court.

(d) The officer convening a court-martial shall send to the senior member of a court composed of State officers and to the Judge advocate or superintending officer of any other court, the original charge-sheet on which the accused is to be tried, the summary of evidence, and the order for the assembly of the court-martial.

Adjournment for insufficient number of officers.

28. (a) If, before the accused is arraigned, the full number of officers detailed are not available to serve, by reason of non-eligibility, disqualification, challenge or otherwise, and if there are not a sufficient number of

CHAPTER IV—Investigation of charges and trial by Court-martial—(continued).

officers in waiting to take the place of those unable to serve the court shall ordinarily adjourn for the purpose of fresh members being appointed; but if the court are of opinion that in the interests of justice, and for the good of the service, it is inexpedient so to adjourn, they may, if not reduced in number below the legal minimum, proceed, recording their reasons for so doing.

(b) If the court adjourns for the purpose of the appointment of fresh members, whether under these rules or otherwise, the convening officer may, if he thinks fit, convene another court.

29. (a) An officer is not eligible for serving on a court-martial if he is not subject to military law.

Ineligibility and disqualification of officers for court-martial.

(b) An officer is disqualified for serving on a general or district court-martial if he

(i) is the officer who convened the court; or

(ii) is the prosecutor or a witness for the prosecution; or

(iii) investigated the charges before trial, or took down the summary of evidence, or was a member of a court of inquiry respecting the matters on which the charges against the accused are founded, or was the squadron, battery, company, or other commander, who made preliminary inquiry into the case; or

(iv) is the commanding officer of the accused or of the corps to which the accused belongs; or

(v) has a personal interest in the case.

30. A general court-martial shall be composed, as far as possible, of officers of different corps or departments, and in no case exclusively of officers of the corps or department to which the accused belongs.

Composition of court-martial.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

Procedure at trial.—Constitution of Court.

Inquiry by court as to legal constitution.

31. (a) On the court assembling, the order convening the court shall be read, and also the names, rank and corps of the officers appointed to serve on the court; and it shall be the first duty of the court to satisfy themselves that the court is legally constituted (that is to say)—

- (i) that, so far as the court can ascertain the court has been convened in accordance with the Regulation and these rules;
- (ii) that the court consists of a number of officers not less than the legal minimum, and, save as mentioned in rule 28, not less than the number detailed;
- (iii) that each of the officers so assembled is eligible and not disqualified for serving on that court-martial;
- (iv) that a superintending officer has, when necessary, been appointed.

(b) The court shall, further, if it is a general or district court-martial to which a Judge advocate has been appointed, ascertain that the Judge-advocate is duly appointed and is not disqualified for acting at that court-martial.

(c) The court, if not satisfied on the above matters, shall report their opinion to the convening authority, and may adjourn for that purpose.

Inquiry by court as to amenability of accused and validity of charge.

32. (a) The court, when satisfied on the above matters, shall satisfy themselves in respect of each charge about to be brought before them—

- (i) that it appears to be laid against a person amenable to military law, and to the jurisdiction of the court, and
- (ii) that each charge discloses an offence under the Regulation and is framed in accordance

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

with these rules, and is so explicit as to enable the accused readily to understand what he has to answer.

(b) The court, if not satisfied on the above matters, shall report their opinion to the convening authority and may adjourn for that purpose.

Procedure at Trial.—Challenge and swearing.

33. When the court have satisfied themselves as to the above facts, the prosecutor, who must be a person ^{Appearance of prosecutor and accused,} subject to military law, shall take his place and the court shall cause the accused to be brought before the court.

34. The names of the president and members of the court shall then be read over to the accused and he shall be asked, as required by section 80 of the Regulation, whether he objects to be tried by any officer sitting on the court. Any such objections shall be disposed of in accordance with the provisions of section 80 of the Regulation; provided that—

- ^{Proceedings for challenges of members of court.}
- (i) The accused shall state the names of all the officers to whom he objects before any objection is disposed of.
 - (ii) The accused may call any person to give evidence in support of his objection.
 - (iii) If more than one officer is objected to, the objection to each officer shall be disposed of separately, and the objection to the lowest in rank shall be disposed of first, and on an objection to an officer, all the other officers present shall vote on the disposal of such objection, notwithstanding that objections have been made to any of those officers.
 - (iv) When an objection to an officer is allowed that officer shall forthwith retire, and take no further part in the proceedings.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(v) when an officer objected to retires, and there are any officers in waiting, the vacancy shall be forthwith filled by one of the officers in waiting being directed to serve in lieu of the retiring officer. If there is no officer in waiting available, the court shall proceed as directed by Rule 28.

(vi) The eligibility, absence of disqualification, and freedom from objection of an officer filling a vacancy shall be ascertained by the court, as in the case of other officers appointed to serve on the court.

Swearing
or affirming
of members.

35. As soon as the court is constituted with the proper number of officers who are not objected to, or the objections to whom have been over-ruled, an oath or affirmation shall be administered to every member in one of the following forms or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of oath.

"You do swear that you will duly administer justice, according to the Jammu and Kashmir Army Regulation without partiality, favour or affection; and if any doubt shall arise, then, according to your conscience, the best of your understanding, and the custom of war in the like cases; and that you will not divulge the sentence of this court-martial until it shall be published by authority; and, further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of Justice or a court-martial, in due course of law. So help you God".

The first person may, when necessary, be substituted for the second in this form of oath and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, accord-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

ing to the Jammu and Kashmir Army Regulation, without partiality, favour or affection, and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of this court-martial until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or court-martial, in due course of law".

36. After the members of the court are all sworn or have made affirmation, an oath or affirmation shall be administered to the following persons or such of them as are present at the court-martial, in such of the following forms as shall be appropriate, or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed:—

Swearing
or affirming
of judge-
advocate
and other
officers.

(A) *Judge-advocate or superintending officer.*

Form of oath.

"You do swear that you will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular member of this-court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law and that you will not, unless it be necessary for the due discharge of your official duties, divulge the sentence of this court-martial until it shall be published by authority. So help you God".

The first person may, when necessary, be substituted for the second in this form of oath, and in all other forms prescribed in this rule, and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will not, upon any account whatsoever, dis-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

close or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice, or a court-martial, in due course of law; and that I will not, unless it be necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it shall be published by authority".

(B) *Officer attending for the purpose of instruction.*

Form of oath.

"You do swear that you will not divulge the sentence of this court-martial until it shall be published by authority, and, further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law. So help you God".

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will not divulge the sentence of this Court-martial until it shall be published by authority, and, further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law".

(C) *Short-handwriter or writer.*

Form of oath.

"You do swear that you will truly take down to the best of your power the evidence to be given before this court-martial and such other matters as you may be required, and will, when required, deliver to the court a true transcript of the same. So help you God."

CHAPTER IV—Investigation of charges and trial by Court-martial—(continued).

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial, and such other matters as I may be required, and will, when required, deliver to the court a true transcript of the same".

(D). *Interpreter.*

Form of Oath.

"You do swear that you will faithfully interpret and translate, as you shall be required to do, touching the matter before the court-martial; and that you will not divulge the sentence until it shall be published by authority; and further, that you will not disclose or discover the vote or opinion of any particular member of this court-martial unless required to give evidence thereof by a court of justice or a court-martial, in due course of law. So help you God".

Form of affirmation.

"I solemnly affirm in the presence of Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial; and that I will not divulge the sentence until it shall be published by authority; and further, that I will not disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law".

37. All oaths and affirmations shall be administered by a member of the court, the judge-advocate, the superintending officer or some other person empowered by the court to administer such oath or affirmation.

Persons to administer oaths and affirmation.

Prosecution Defence and Summoning up.

38. (a) After the members of the court and other persons are sworn or affirmed as above-mentioned, the

Arraignment of accused.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

accused shall be arraigned on the charges against him.

(b) The charges upon which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.

Objection
by accused
to charge.

39. The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Regulation or is not in accordance with these rules.

Amend-
ment of
charge.

40. (a) At any time during the trial, if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, the court may amend the charge-sheet so as to correct that mistake.

(b) If on the trial of any charge it appears to the court at any time before they have begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration in, the charge is required, they may report their opinion to the convening authority, and may adjourn, and the convening authority may either direct a new trial to be commenced, or amend the charge, and order the trial to proceed with such amended charge after due notice to the accused.

Special
plea to the
jurisdiction.

41. (a) The accused, before pleading to a charge, may offer a special plea to the general jurisdiction of the court; and if he does so, and the court consider that anything stated in such plea shows that the court have not jurisdiction, they shall receive any evidence offered in support, together with any evidence offered by the prosecutor in disproof or qualification thereof, and any address by the accused and reply by the prosecutor in reference thereto.

(b) If the court overrule the special plea, they shall proceed with the trial.

(c) If the court allow the special plea, they shall record their decision and the reasons for it, and report it

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to the convening authority and adjourn; such decision shall not require any confirmation, and the convening authority shall either forthwith convene another court for the trial of the accused, or order the accused to be released.

(d) If the court are in doubt as to the validity of the plea, they may refer the matter to the convening authority, and may adjourn for that purpose, or may record a special decision with respect to such plea, and proceed with the trial.

42. (a) If no special plea to the general jurisdiction of the court is offered, or if such plea being offered, is over-ruled, the accused person's plea "Guilty" or "Not guilty" (or if he refuses to plead, or does not plead intelligibly either one or the other, a plea of "Not guilty") shall be recorded on each charge. General
plea
"Guilty" or
"Not guilty".

(b) If an accused person pleads "Guilty" that plea shall be recorded as the finding of the court; but, before it is recorded, the officer conducting the proceedings, on behalf of the court, shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty, and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence that the accused ought to plead not guilty.

43. (a) The accused, at the time of his general plea of "Guilty" or "Not guilty" to a charge for an offence, may offer a plea in bar of trial on the ground that— Plea in bar.

(1) he has been previously convicted or acquitted of the offence by a competent criminal court or by a court-martial or has been dealt with summarily under section 20 or 22 of the Regulation for the offence; or

(2) the offence has been pardoned or condoned by competent military authority; or

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(3) the time which has elapsed between the commission of the offence and the beginning of the trial is more than three years, and the limit of time for trial is not extended under section 67 of the Regulation.

(b) If he offers such plea in bar, the court shall record it as well as his general plea, and if they consider that any fact or facts stated by him are sufficient to support the plea in bar they shall receive any evidence offered, and hear any address made by the accused and the prosecutor in reference to the plea.

(c) If the court find that the plea in bar is proved they shall record their finding, and notify it to the confirming authority, and shall either adjourn, or if there is any other charge against the accused, whether in the same or in a different charge-sheet, which is not affected by the plea in bar, may proceed to the trial of the accused on that charge.

(d) If the finding that the plea in bar is proved is not confirmed, the court may be re-assembled by the confirming authority, and proceed as if the plea had been found not proved.

(e) If the court find that the plea in bar is not proved, they shall proceed with the trial and the said finding shall be subject to confirmation like any other finding of the court.

Procedure
after plea of
"Guilty".

44. (a) Upon the record of the plea of "Guilty" if there are other charges in the same charge-sheet to which the plea is "Not guilty" the trial shall first proceed with respect to those other charges, and, after the finding on those charges, shall proceed with the charges on which a plea of "Guilty" has been entered; but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded "Guilty" to any charge, or may, instead of trying him, record a finding of "Not guilty" on each alternative charge to which the prisoner has not pleaded "Guilty".

ARTICLE 44
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(b) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the court shall receive any statement which the accused desires to make in reference to the charge, and shall read the summary of evidence, and annex it to the proceedings, or if there is no such summary, shall take and record sufficient evidence to enable them to determine the sentence, and the confirming officer to know all the circumstances connected with the offence. This evidence will be taken in like manner as is directed by these Rules in the case of a plea of "Not guilty".

(c) After evidence has been so taken, or the summary of evidence has been read, as the case may be, the accused may make a statement in mitigation of punishment, and may call witnesses as to his character.

(d) If from the statement of the accused or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty" the court shall alter the record and enter a plea of "Not guilty", and proceed with the trial accordingly.

(e) If a plea of "Guilty" is recorded, and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under (b) and (c) shall take place when the finding on the other charges in the same charge-sheet are recorded.

(f) When the accused at any court-martial states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

45. The accused may, if he thinks fit, at any time during the trial, withdraw his plea of "Not guilty" and plead "Guilty" and in such case the court will at once, subject to a compliance with Rule 42 (b) record a plea and finding of "Guilty" and shall, so far as is necessary, proceed in manner directed by Rule 44. Withdrawal of plea of "Not guilty".

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Plea "Not guilty" and case for the prosecution.

46. After the plea of "Not guilty" to any charge is recorded, the trial shall proceed as follows:—

(a) The prosecutor may, if he desires, make an opening address.

(b) The evidence for the prosecution shall then be taken.

(c) If it should be necessary for the prosecutor to give evidence for the prosecution on the facts of the case, he shall give it after the delivery of his address, and he must be sworn and give his evidence in detail.

(d) He may be cross-examined by the accused and afterwards may make any statement which might be made by a witness on re-examination.

47. (1) At the close of the evidence for the prosecution the accused shall be asked if he intends to call any witnesses to the facts of the case.

Close of case for the prosecution and procedure for defence where accused does not call witnesses.

(2) If the accused does not state that he intends to call witnesses to the facts of the case the procedure shall be as follows:—

(a) The prosecutor may address the court a second time for the purpose of summing up the evidence for the prosecution.

(b) The accused shall be asked if he has anything to say in his defence and may address the court in his defence.

(c) The accused may call witnesses as to his character.

(d) The prosecutor may produce, in reply to the witnesses as to character, proof of former convictions, and entries in the defaulter's

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book, but he may not again address the court.

48. If the accused states that he intends to call witnesses to the facts of the case, the procedure shall be as follows:—

Defence where accused calls witnesses.

(a) The accused shall be asked if he has anything to say in his defence, and may address the court in his defence.

(b) The accused may call his witnesses including witnesses as to character.

(c) The prosecutor may, in special cases with the permission of the court, call witnesses in reply.

(d) After the evidence of all the witnesses for the defence has been taken, the accused may again address the court, and the time at which such second address is allowed is in these rules referred to as the time for the second address of the accused.

(e) The prosecutor shall be entitled to address the court in reply.

49. (a) The judge-advocate, if any, shall, unless both he and the court think a summing up unnecessary, sum-up in open court the whole case.

Summing-up by judge-advocate.

(b) After the judge-advocate has spoken, no other address shall be allowed.

Finding and Sentence.

50. (a) The court shall deliberate on their finding in closed court.

Consideration of finding.

(b) The opinion of each member of the court shall be taken separately on each charge.

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Form and
record of
finding.

51. (a) The finding on every charge shall be recorded, and except as mentioned in these rules shall be recorded simply as a finding of "Guilty" or of "Not guilty" or of "Not guilty and honourably acquit him of the same".

(b) Where the court are of opinion as regards any charge that the facts which they find to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, they may, instead of a finding of "Not guilty" record a special finding.

(c) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(d) Where the court are of opinion as regards any charge that the facts proved do not disclose an offence under the Regulation, the court shall acquit the accused of that charge.

(e) If the court doubt as regards any charge whether the facts proved show the accused to be guilty or not of an offence under the Regulation, they may, before recording a finding on that charge, refer to the confirming authority for an opinion, and, if necessary, adjourn for that purpose.

(f) Where there are alternative charges and the facts proved appear to the court not to constitute the offence mentioned in any of these alternative charges, the court shall record a finding of "Not guilty" on that charges; but if the court think that the facts so proved constitute one of the offences stated in two or more of the alternative charges, but doubt which of those offences the facts do at law constitute, then they may, either before recording a finding on those charges refer to the confirming authority for an opinion, and, if necessary adjourn for the purpose, or they may record a special finding, stating the facts which they find to be proved,

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and stating that they doubt whether those facts constitute in law the offence in such one or another of the alternative charges as are specified in the finding.

52. If the finding on all the charges is "Not guilty" ^{Procedure on acquittal.} the president shall date and sign the finding and such signature shall authenticate the whole of the proceedings, and the proceedings upon being signed by the judge-advocate or superintending officer, if any, shall be at once transmitted for confirmation.

53. (a) If the finding on any charge is "Guilty" ^{Procedure on conviction.} then, for the guidance for the court in determining their sentence, and of the confirming authority in considering the sentence, the court, before deliberating on their sentence, may take evidence of and record the general character, age, service rank, and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial or a criminal court, any previous punishments awarded to him by an officer exercising authority under section 20 of the Regulation, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled, and which the court can sentence him to forfeit.

(b) Evidence on the above matters may be given by a witness verifying a statement which contains a summary of the entries in the regimental books respecting the accused and identifying the accused as the person referred to in that summary.

(c) The accused may cross-examine any such witness, and may call witnesses to rebut such evidence and if the accused so requests, the regimental books, or a duly certified copy of the material entries therein, shall be produced; and if the accused alleges that the summary is in any respect not in accordance with the regimental books or such certified copy, as the case may be, the court shall compare the summary with those books or copy, and if they find it is not in accordance

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therewith shall cause the summary to be corrected accordingly.

(d) When all the evidence on the above matters has been given the accused may address the court thereon.

Sentence.

54. The court shall award one sentence in respect of all the offences of which the accused is found guilty, and such sentence shall be deemed to be awarded in respect of the offence in each charge in respect of which it can be legally given, and not to be awarded in respect of any offence in a charge in respect of which it cannot be legally given.

Recommendation to mercy.

55. (a) If the court make a recommendation to mercy, they shall give their reasons for their recommendation.

(b) The number of opinions by which a recommendation to mercy mentioned in this rule, or any question relative thereto, is adopted or rejected may be entered in the proceedings.

Signing and transmission of proceedings.

56. Upon the court awarding the sentence, the president shall date and sign the sentence and such signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the judge-advocate or superintending officer, if any shall be at once transmitted for confirmation.

Confirmation and Revision.

Revision.

57. (a) Where the finding or sentence is sent back for revision under section 100 of the Regulation the court shall re-assemble in closed court, but if the court is directed to take fresh evidence on revision such evidence must be taken in open court and in the presence of the accused.

(b) Where the finding is sent back for revision and the court do not adhere to their former finding, they shall revoke the finding and sentence, and record a new

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finding, and if such new finding involves a sentence, pass sentence afresh.

(c) Where the sentence alone is sent back for revision, the court shall not revise the finding.

(d) After revision, the president shall date and sign the decision of the court, and the proceedings upon being signed by the judge-advocate or superintending officer, if any, shall be at once transmitted for confirmation.

58. The charge, finding, sentence and confirmation of a court-martial shall be promulgated in such manner as the confirming authority may direct; and if no direction is given, according to the custom of the service. Promulga-
tion.

59. (a) Where a sentence has been awarded by a court-martial in respect of offences in several charges, and the confirming authority confirms the finding on some but not on all of such charges, that authority shall take into consideration the fact of such non-confirmation, and shall, if it seems just, mitigate, remit, or commute the punishment awarded according as seems just, having regard to the offences in the charges the findings on which are confirmed. Mitigation
of sentence
on a partial
confirma-
tion.

(b) Where a sentence has been awarded by a court-martial in respect of offences in several charges and has been confirmed, and any one of such charges or the finding thereon is found to be invalid, the authority having power to mitigate, remit, or commute the punishment awarded by the sentence shall take into consideration the fact of such invalidity, and if it seems just, mitigate, remit, or commute the punishment awarded according as seems just, having regard to the offences in the charges which with the findings thereon are not invalid, and the punishment as so modified shall be as valid as if it had been originally awarded only in respect of those offences.

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Confir-
mation of fin-
ding on alter-
native charge

60. (a) Where a special finding has been recorded in relation to alternative charges under Rule 51 (F), and the confirming authority is of opinion that the facts found by the special finding constitute in law the offence charged by any of the alternative charges, that authority may confirm the finding, and in that case shall declare that the finding amounts to a finding of guilty on that charge; but it is afterwards declared by any authority having power to remit or commute the punishment awarded that the said facts constitute in law the offence charged in one of the other alternative charges, then the confirming authority, or such other authority as aforesaid, may declare that the finding amounts to a finding of guilty on that alternative charge; and the finding shall be a valid finding of guilty on the charge specified in that behalf in the declaration made on confirmation, or, in case of a subsequent declaration, in that subsequent declaration.

(b) The sentence awarded in the case of any such special finding may likewise be confirmed, subject to this proviso, that if the offence in one of the alternative charges involves a higher punishment, or is otherwise graver, than the offence in the charge of which the accused is found to be guilty under the terms of any declaration mentioned in (a), the authority making the declaration, or some other authority having power to mitigate, remit, or commute the punishment awarded, shall mitigate, remit or commute the punishment according as seems just having regard to the last-mentioned offence; and the punishment as so modified shall be as valid as if it had been originally awarded in respect of the last-mentioned offence.

Confir-
mation not-
withstanding
informality
in, or excess
of, punish-
ment.

61. (a) If the sentence of a court-martial is informally expressed, the confirming authority may in confirming the sentence, vary the form so that it shall be properly expressed; and if the punishment awarded by the sentence is in excess of the punishment authorized by law, the confirming authority may vary the sentence so that the punishment shall not be in excess of the punishment authorized by law; and the confirming authority

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may confirm the finding and the sentence, as so varied, of the court-martial.

62. A member of a court-martial, or an officer who has acted as prosecutor at a court-martial, shall not confirm the finding or sentence of that court-martial and where such member or prosecutor becomes confirming officer, he shall refer the finding and sentence of the court-martial to a superior authority competent to confirm the findings and sentences of the like description of court-martial.

Member or prosecutor not to confirm the proceedings.

Proceedings of General and District Court-Martial

63. The members of a court-martial shall take their seats according to their army rank.

Seating of members.

64. (a) In the case of a court-martial composed of State officers, or partly of State officers, and partly of Indian Officers the president shall conduct the proceedings.

Conduct of proceedings.

(b) In the case of a court-martial composed of Indian Officers, the judge-advocate, if there is one, shall conduct the proceedings. If there is no judge-advocate, the superintending officer shall conduct them.

65. (a) The officer conducting the proceedings is responsible for the trial being conducted in proper order, and in accordance with the Regulation, and will take care that everything is conducted in a manner befitting a court of justice.

Responsibility of officer conducting the proceedings.

(b) It is the duty of the officer conducting the proceedings to see that justice is administered, that the accused has a fair trial, and that he does not suffer any disadvantage in consequence of his position as a person under trial, or of his ignorance or of his incapacity to examine or cross-examine witnesses, or otherwise.

66. (a) It is the duty of the prosecutor to assist the court in the administration of justice, to behave impartially, to bring the whole of the transaction before the court, and not to take any unfair advantage of, or suppress any evidence in favour of the accused.

Power of court over address of prosecutor and accused.

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(b) The court may stop the prosecutor in referring to any matter not relevant to the charge then before the court, or any matter which the court is not investigating, and it is duty of the court to restrain any undue violence of language or want of fairness or moderation on the part of the prosecutor.

(c) The court shall allow great latitude to the accused in making his defence; he must abstain from any remarks contemptuous or disrespectful towards the court, and from coarse and insulting language towards others, but he may for the purposes of his defence impeach the evidence and the motives of the witnesses and prosecutor, and charge other persons with blame and even criminality, subject, if he does so, to any liability to further proceedings to which he would otherwise be subject. The court may caution the accused as to the irrelevance of his defence, but shall not, unless in special cases, stop his defence solely on ground of such irrelevance.

Procedure
on trial of
accused
persons
together.

67. Where two or more accused persons are tried together and any evidence is tendered by any one or more of them, the evidence and addresses on the part of all the accused persons shall be taken before the prosecutor replies, and the prosecutor shall make one address only in reply as regards all the accused persons.

Separate
charge-
sheets.

68. (a) When the convening officer directs any charges against an accused person to be inserted in different charge-sheets, the accused shall be arraigned and until after the finding tried, upon each charge-sheet, separately, and accordingly the procedure in Rules 38 to 51, both inclusive, shall, until after the finding, be followed in respect of each charge-sheet, as if it contained the whole of the charges against the accused.

(b) The trials upon the several charge-sheets shall be in such order as the convening officer directs.

(c) When the court have tried the accused upon all the charge-sheets they shall, in the case of the finding being "Not guilty" on all the charges proceed as direct-

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ed by Rule 52, and in case of the finding on any one or more of the charges being "Guilty" proceed as directed by Rules 44 and 53 to 56, both inclusive, in like manner in each case as if all the charges in the different charge-sheets had been contained in one charge-sheet, and the sentence passed shall be of the same effect as if all the charges had been contained in one charge-sheet.

(d) If the convening officer directs that, in the event of the conviction of an accused person upon a charge in any charge-sheet, he need not be tried upon the subsequent charge-sheets, the court in such event may, without trying the accused upon any of the subsequent charge-sheets, proceed as before directed by (C).

(e) Where a charge-sheet contains more than one charge, the accused may, before pleading claim to be tried separately in respect of any charge or charges in that charge-sheet, on the ground that he will be embarrassed in his defence, if he is not so tried separately; and in such case the court, unless they think his claim unreasonable, shall arraign and try the accused in like manner as if the convening officer had inserted the said charge or charges in different charge-sheets.

(f) If the accused pleads "Guilty" to a charge in a charge-sheet, and the trial does not proceed as mentioned in Rule 44 (A), with respect to the other charges in that charge-sheet, the court shall, subject to the directions of the convening officer, proceed to try the accused on the charges in the next charge-sheet before they proceed as directed by Rule 44 (B) and (C).

69. (a) When a court-martial sits in closed court on any deliberation amongst the members or otherwise, no person shall be present except the members of the court, the Judge-advocate, or superintending officer, any officers under instruction, and, if an interpreter has been appointed and the court consider his presence necessary, the interpreter; and the court may either retire, or may cause the place where they sit to be cleared of all other persons not entitled to be present.

Sitting in
closed court

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(b) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court and in the presence of the accused.

Continuity
of trial and
adjournment
of court.

70. (a) When a court is once assembled and the accused has been arraigned the court shall continue the trial from day to day and sit for a reasonable period on every day unless it appears to the court that adjournment is necessary for the ends of justice or that such continuance is impracticable.

(b) A court may adjourn from time to time, and from place to place, and may, when necessary, view any place.

(c) A court-martial, in the absence either of a judge-advocate or superintending officer (if such has been appointed for that court-martial), shall not proceed, and, if necessary, shall adjourn.

(d) The senior officer on the spot may also, for military exigencies, adjourn or prolong the adjournment of the court.

(e) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the proper military authority; and, if the place to which an adjournment is made is not specified, the adjournment shall be to the same place or to such place as may be specified in further orders from the proper military authority.

Proceed-
ings on
death or
illness of
accused.

71. In case of the death of the accused, or of such illness of the accused as renders it impossible to continue the trial, the court shall ascertain the fact of the death or illness by evidence, and record the same, and adjourn, and transmit the proceedings to the convening authority.

Death, re-
tirement or
absence of
President.

72. (a) In the case of the death, retirement on challenge or unavoidable absence of the president, the next senior officer shall take the place of the president and the trial shall proceed if the court is still composed

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of not less than the smallest number of officers of which it is required by law to consist.

(b) A member of a court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial by that court of that person, but the court will not be affected unless it is reduced below the legal minimum.

(c) An officer shall not be added to a court-martial after the accused has been arraigned.

73. (a) Every member of a court must give his opinion on every question which the court has to decide, and must give his opinion as to the sentence, notwithstanding that he has given his opinion in favour of acquittal. Taking of opinion of member is of court.

(b) The opinions of the members of the court shall be taken in succession, beginning with the junior in rank.

74. If any question should arise incidentally, during the trial, the person, whether prosecutor or accused, requesting the opinion of the court, is to speak first; the other person is then to answer, and the first person is to be allowed to reply. Procedure on incidental question.

75. (a) A court may be sworn or affirmed at the time to try any number of accused persons then present before it, whether those persons are to be tried together or separately, and each accused person shall have power to object to the members of the court, and shall be asked separately whether he objects to any member. Swearing of court to try several accused persons.

(b) In the case of several accused persons to be tried separately, the court, upon one of those persons objecting to a member, may, according as they think fit, proceed to determine, that objection or postpone the case of that person and swear or affirm the members of the court for the trial of the others alone.

(c) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall

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proceed with one case, postponing the other cases, and taking them after-wards in succession.

Swearing
of interpre-
ter short-
hand writer,
and writer.

76. (a) At any time during the trial an impartial person may, if the court think it necessary, and shall, if either the prosecutor or the accused request it on any reasonable ground, be sworn or affirmed to act as interpreter.

(b) An impartial person may at any time of the trial, if the court think it desirable, be sworn or affirmed to act as a writer or shorthand writer.

(c) Before a person is sworn or affirmed as interpreter writer or shorthand writer, the accused shall be informed of the person who is proposed to be sworn, or affirmed and may object to the person as not being impartial ; and the court, if they think that the objection is reasonable shall not swear or affirm that person as interpreter writer or shorthand writer.

Evidence,
when to be
translated.

77. When any evidence is given in a language which any of the officers composing the court, the judge-advocate, the superintending officer, the prosecutor or the accused does not understand, that evidence shall be interpreted to such officer or person in a language which he does understand. If an interpreter in such language has been appointed by the convening officer, and duly sworn or affirmed, the evidence shall be interpreted by him. If no such interpreter has been appointed and sworn or affirmed, an impartial person shall be sworn or affirmed by the court as required by Rule 76. When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

Record in
proceedings
of transac-
tions of
court-
martial.

78. (a) At a court-martial the judge-advocate, or, if there is none, the president or superintending officer shall record, or cause to be recorded in English or Urdu, all transactions of that court, and shall be responsible for the accuracy of the record (in these rules referred to as the proceedings) and if the judge-advocate is called as a witness by the accused, the president (if the court is

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composed of State Officers or partly of state and partly of Indian Officers) shall be responsible for the accuracy of the record in the proceedings of the evidence of the judge-advocate.

(b) If the court is composed of Indian officers and the judge-advocate or superintending officer is called as a witness by the accused, the interpreter shall be responsible for the accuracy of the record in the proceedings of the evidence of the judge-advocate or superintending officer. If no interpreter has previously been appointed, or if the interpreter is unable to record the proceedings in English or Urdu, an interpreter shall be appointed for this purpose by the court.

(c) The evidence shall be taken down in a narrative form in as nearly as possible the words used; but in any case where the prosecutor, the accused person, the judge-advocate, or the court considers it material, the question and answer shall be taken down *verbatim*.

(d) Any question which has been objected to, and the tender of any evidence which has been objected to, shall, if the prosecutor or accused so requests, or the court think fit, be entered with the grounds of the objection, and decision of the court thereon.

(e) Where any address by, or on behalf of, the prosecutor or person under accusation, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the court think proper, except that—

(1) the court shall in every case make such record of the defence made by the accused as will enable the confirming officer to judge of the reply made by, or on behalf of, the accused to each charge against him; and

(2) the court shall also record any particular matters in the address by, or on behalf of, the prosecutor or accused person, which the prosecutor or accused person, as the case may be, requires.

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(f) The court shall not enter in the proceedings any comment or anything not before the court, or any report of any fact not forming part of the trial; but if any such comment or report seems to the court necessary, the court may forward it to the proper military authority in a separate document, signed by the president.

Custody
and inspection
of proceedings.

79. The proceeding shall be deemed to be in the custody of the judge-advocate (if any), or, if there is none, of the president or superintending officer, but may, with proper precautions for their safety, be inspected by the members of the court, the prosecutor and accused, respectively, at all reasonable times before the court is closed to consider the finding.

Transmission
of proceedings
after finding.

80. The proceedings shall be at once sent by the person having the custody thereof to such person as may be directed by the order convening the court, or, in default of any such direction, to the confirming officer.

Friend of accused and counsel.

Accused
may have a
person to
assist him
on trial.

81. (a) At any general or district court-martial an accused person may have a person to assist him during the trial, whether a legal adviser or any other person.

(b) A person so assisting him may advise him on all points, and suggest the questions to be put to witnesses; and, if an officer subject to military law, shall have the same rights and duties as counsel have under these rules, and the right of the accused shall be limited in like manner.

Counsel
allowed in
certain
general and
district
courts-
martial.

82. (a) Subject to these rules, counsel shall be allowed to appear on behalf of the prosecutor and accused at general and district courts-martial if the Commander-in-Chief or the convening officer declares that it is expedient to allow the appearance of counsel thereat, and such declaration may be made as regards all general and district courts-martial held in any particular place, or as regards any particular general or district court-martial, and may be made subject to such reservation as to cases on active service, or otherwise, as seems expedient.

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(b) Save as provided in Rule 81, the rules with respect to counsel shall apply only to the courts-martial at which counsel are under this rule, allowed to appear.

83. (a) Where an accused person gives notice of his intention to have counsel to assist him during the trial, either on the day on which he is informed of the charge or at any time not being less than seven days before the trial, or such shorter time before the trial as in the opinion of the court would have enabled the prosecutor to obtain, if he had thought fit, counsel to assist him during the trial, and would have enabled the authority appointing a judge-advocate to appoint counsel to act as judge-advocate at the trial, or where such notice as mentioned in (b) is given to the accused on the part of the prosecution, counsel may appear at the court-martial to assist the accused.

Require-
ments for
appearance
of a counsel.

(b) If the convening officer so directs counsel may appear on behalf of the prosecutor, but in that case, unless the notice in (a) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time (not in any case less than seven days) before the trial, as would, in the opinion of the court, have enabled the accused to obtain counsel to assist him at the trial.

(c) The counsel, who appears before a court-martial on behalf of the prosecutor or accused, shall have the same right as the prosecutor or accused for whom he appears, to call, and orally examine, cross-examine, and re-examine witnesses, to make an objection or statement, to address the court, to put in any plea, and to inspect the proceedings, and shall have the right otherwise to act in the course of the trial in the place of the person on whose behalf he appears, and he shall comply with these rules as if he were that person; and in such case that person shall not have the right himself to do any of the above matters except as regards the statement allowed by Rule 88 or except so far as the court permit him so to do.

(d) When counsel appears on behalf of the prosecutor, the prosecutor, if called as a witness may be

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examined and re-examined as any other witness and Rule 46 (c) and (d) shall not apply.

Counsel for prosecution. 84. The counsel appearing on behalf of the prosecutor shall have the same duty as the prosecutor, and is subject to be stopped and restrained by the court in the manner provided by Rule 66 (b).

Counsel for accused. 85. The counsel appearing on behalf of the accused has the like rights, and is under the like obligations as are specified in Rule 66 (c) in the case of the accused.

(General rules as to counsel. 86. Counsel, whether for the prosecution or for the accused, shall conform strictly to these rules and to the rules of criminal courts in the State relating to the examination, cross-examination, and re-examination of witnesses and relating to the duties of counsel.

Qualifications of counsel. 87. (a) Neither the prosecutor nor the accused has any right to object to any counsel if properly qualified.

(b) Counsel shall be deemed properly qualified if he is a legal practitioner authorized to practise with right of audience in a Court of Sessions in the State, or if, in any part of His Majesty's dominions, he is recognised by the convening officer as having in that part rights and duties similar to those of such legal practitioner in the State and as being subject to punishment or disability for a breach of professional rules.

Statement by accused defended by counsel or officer. 88. (a) An accused person assisted by counsel, or by an officer subject to military law, may, if he thinks fit, at the close of the case for the prosecution and before the address by such counsel, or officer, make a statement giving his own account of the subject of the charges against him.

The statement may be made either orally or in writing, but the accused making the statement shall not be sworn, and no question can be put to him by the court or by any other person.

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(b) If the accused make such a statement the procedure shall, so far as possible, be the same as if the accused had called witnesses to the facts of the case.

Judge-Advocate.

89. An officer who is disqualified for sitting on a court-martial, and any other person who would have been so disqualified, had he been an officer, shall be disqualified for acting as judge-advocate at that court-martial. Disqualifi-
cation
of Judge
advocate.

90. If the judge-advocate dies, or from illness or from any cause whatever is unable to attend, the court shall adjourn, and the president shall report the circumstances to the convening authority; and a person not disqualified to be judge-advocate may be appointed by that authority, who shall be sworn, or affirmed, and act as judge-advocate for the residue of the trial, or until the judge-advocate returns. Substitute
on death,
illness or
absence of
judge-
advocate.

91. The powers and duties of a judge-advocate are as follows:— Powers and
duties of
judge-
advocate.

(a) The prosecutor and the accused, respectively, are at all times, after the judge-advocate is named to act on the court, entitled to his opinion on any question of law relative to the charge or trial, whether he is in or out of court, subject, when he is in court, to the permission of the court.

(b) At a court-martial he represents the judge-advocate-general.

(c) He is responsible for informing the court of any informality or irregularity in the proceedings. whether consulted or not, he shall inform the convening officer and the court of any informality or defect in the charge, or in the constitution of the court, and shall give his advice on any matter before the court.

(d) Any information or advice given to the court on any matter before the court shall, if he or the court desire it, be entered in the proceeding.

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(e) At the conclusion of the case he shall, unless both he and the court consider it unnecessary, sum up the evidence and give his opinion upon the legal bearing of the case before the court proceed to deliberate upon their finding.

(f) The court, in following the opinion of the judge-advocate on a legal point, may record that they have decided in consequence of that opinion.

(g) The judge-advocate has, equally with the officer conducting the proceedings, the duty of taking care that the accused does not suffer any disadvantage in consequence of his position as such, or of his ignorance or incapacity to examine or cross-examine witnesses or otherwise, and may, for that purpose, with the permission of the court, call witnesses and put questions to witnesses, which appear to him necessary or desirable to elicit the truth.

(h) In fulfilling his duties the judge-advocate must be careful to maintain an entirely impartial position.

SECTION 3.—SUMMARY COURTS-MARTIAL.

Proceed-
ings.

92. The officer holding the trial, hereinafter called the court, shall record, or cause to be recorded, in English or Urdu, the transactions of every summary court-martial.

Evidence
when to be
translated.

93. When any evidence is given in a language which the court or the accused does not understand that evidence shall be interpreted to the court or accused as the case may be in a language which it or he does understand. The court shall, for this purpose, either appoint an interpreter, or shall itself take the oath or affirmation prescribed for an interpreter at a summary court-martial. When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

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94. When the court, the interpreter (if any) ^{Assembly.} and the officers attending the trial are assembled, the accused shall be brought before the court, and the oaths or affirmations prescribed in Rule 95 taken by the persons therein mentioned.

95. (a) The court shall make oath or affirmation ^{Swearing or affirming of court and interpreter.} in one of the following forms or in such other form to the same purport as may be according to its religion or otherwise binding on its conscience.

Form of oath.

"I do swear that I will duly administer justice, according to the Jammu and Kashmir Army Regulation, without partiality, favour, or affection, and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases. So help me God".

The words "So help me God" may, when necessary, be omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will duly administer justice" etc. as in the form of oath but omitting the words "So help me God".

(b) After which the court, or some person empowered by it, shall administer to the interpreter (if any) an oath or affirmation in one of the following forms, or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of oath.

"You do swear that you will faithfully interpret and translate, as you shall be required to do touching the matter before this court-martial. So help you God".

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The first person may, when necessary, be substituted for the second in this form of oath, and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate as I shall be required to do, touching the matter before this court-martial"—

(c) After the oaths and affirmation have been administered all witnesses will withdraw from the court.

Swearing of court to try several accused persons.

96. (a) A summary court-martial may be sworn or affirmed at the time to try any number of accused persons then present before it whether those persons are to be tried together or separately.

(b) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall proceed with one case post-poning the other cases and taking them afterwards in succession.

Arraignment of accused.

97. (a) After the court and interpreter (if any) are sworn or affirmed as above-mentioned, the accused shall be arraigned on the charges against him.

(b) The charges on which the accused is arraigned shall be read and, if necessary translated to him, and he shall be required to plead separately to each charge.

Objection by accused to charge.

98. The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Regulation, or is not in accordance with these rules.

Amendment of charge.

99. (a) At any time during the trial if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, it may amend the charge-sheet so as to correct that mistake.

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(b) If on the trial of any charge it appears to the court at any time before it has begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration, in the charge is required, it may amend such charge and may, after due notice to the accused, and with the sanction of the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the accused if the amended charge requires such sanction, proceed with the trial on such amended charge.

100. If a special plea to the general jurisdiction of the court, or a plea in bar of trial, is offered by the accused, the procedure laid down for general and district courts-martial when disposing of such pleas shall, so far as may be applicable, be followed, but no finding by a summary court-martial on either of such pleas shall require confirmation. Special pleas.

101. (a) The accused person's plea——“Guilty” or “Not guilty” (or if he refuses to plead, or does not plead intelligibly either one or the other, a plea of “Not guilty”)——shall be recorded on each charge. General plea of “Guilty” or “Not guilty”

(b) If an accused person pleads “Guilty”, that plea shall be recorded as the finding of the court; but before it is recorded, the court shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure, which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence (if any) or otherwise that the accused ought to plead not guilty.

102. (a) Upon the record of the plea of “Guilty” if there are other charges in the same charge-sheet to which the plea is “Not guilty”, the trial shall first proceed with respect to those other charges, and, after the finding on those charges, shall proceed with the charges on which a plea of “Guilty” has been entered; but if they are alternative charges, the court may either proceed with respect Procedure after plea of “Guilty”.

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to all the charges as if the accused had not pleaded "Guilty" to any charge, or may, instead of trying him, record a finding of "Not guilty" on each alternative charge to which the accused has not pleaded "Guilty".

(b) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the court shall read the summary of evidence, and annex it to the proceedings, or if there is no such summary, shall take and record sufficient evidence to enable it to determine the sentence and the reviewing officer to know all the circumstances connected with the offence. This evidence shall be taken in like manner as is directed by these Rules in the case of a plea of "Not guilty".

(c) After such evidence has been taken, or the summary of evidence has been read, as the case may be the accused may address the court in reference to the charge and in mitigation of punishment and may call witnesses as to his character.

(d) If from the statement of the accused, or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty" the court shall alter the record and enter a plea of "Not guilty" and proceed with the trial accordingly.

(e) If a plea of "Guilty" is recorded and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under (b) and (c) shall take place when the findings on the other charges in the same charge-sheet are recorded.

(f) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

Withdrawal of plea of "Not guilty".

103. The accused may, if he thinks fit, at any time during the trial, withdraw his plea of "Not guilty" and plead "Guilty" and in such case the court shall at once,

CHAPTER IV—Investigation of charges and trial by Court-martial—(continued).

subject to a compliance with Rule 101 (b), record a plea and finding of "Guilty" and shall, so far as is necessary, proceed in manner directed by Rule 102.

104. After the plea of "Not guilty" to any charge is recorded the evidence for the prosecution will be taken. ^{Procedure after plea of "Not guilty"} At the close of the evidence for the prosecution the accused shall be asked if he has anything to say in his defence, and may address the court in his defence or may defer such address until he has called his witnesses.

The accused may then call his witnesses, including also witnesses to character.

105. The court may, if it thinks it necessary in the interests of justice, call witnesses in reply to the defence. ^{Witnesses in reply to defence.}

106. After all the evidence, both for prosecution and defence, has been heard, the court shall give its opinion as to whether the accused is guilty or not guilty of the charges. ^{Verdict.}

107. (a) The finding on every charge shall be recorded, and except as mentioned in these rules shall be recorded simply as a finding of "Guilty," or of "Not guilty" or of "Not guilty and honourably acquit him of the same". ^{Finding.}

(b) When the court is of opinion as regards any charge that the facts found to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge, and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of "Not guilty" record a special finding.

(c) The special finding may find the accused guilty on a charge, subject to the statement of exceptions or variations specified therein.

(d) When the court is of opinion that the facts proved do not disclose an offence under the Regulation, the court will acquit the prisoner on that charge.

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Procedure
on acquittal.

108. If the finding on each of the charges in a charge-sheet is "Not guilty", the court shall date and sign the proceedings, the findings will be announced in open court, and the accused will be released in respect of those charges.

Procedure
on finding of
"Guilty".

109. (a) If the finding on any charge is "Guilty", the court may record of its own knowledge, or take evidence of and record, the general character, age, service, rank, and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial, or a criminal court, any previous punishments awarded to him by an officer exercising authority under section 20 of the Regulation, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military rewards, of which he may be in possession or to which he is entitled, and which the court can sentence him to forfeit.

(b) If the court does not record the matters mentioned in this rule of its own knowledge evidence on these matters may be taken in the manner directed in Rule 53 for similar evidence at general and district courts-martial.

Sentence.

110. The court shall award one sentence in respect of all the offences of which the accused is found guilty.

111. The court shall date and sign the sentence and such signature shall authenticate the whole of the proceedings.

Charges in
different
charge-
sheets.

112. When the charges at a trial by summary court-martial are contained in different charge-sheets, the procedure laid down for general and district courts-martial when trying charges contained in different charge-sheets, shall, so far as may be applicable, be followed.

Clearing
the court.

113. (a) The officer holding the trial may clear the court to consider the evidence or to consult with the officers attending the trial.

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(b) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court and in the presence of the accused.

114. A summary court-martial may adjourn from time to time, and from place to place, and may, when necessary, view any place. Adjournment.

115. In any summary court-martial an accused person may have a person to assist him during the trial, whether a legal adviser or any other person. A person so assisting him may advise him on all points and suggest the questions to be put to witnesses, but shall not examine or cross-examine witnesses or address, the court. Friend of accused.

116. An explanatory memorandum is to be attached to the proceedings when a summary court-martial tries, without reference, an offence which should not ordinarily be so tried. Memorandum to be attached to proceedings.

117. The sentence of a summary court-martial shall (except as provided in Rule 118) be promulgated, in the manner usual in the service, at the earliest opportunity after it has been pronounced and shall be carried out without delay after promulgation. Promulgation.

118. When the officer holding the trial has less than five years' service, the sentence of a summary court-martial, shall not (except on active service) be promulgated or carried out until approved by superior authority as provided in section 101 of the Regulation. Promulgation to be deferred in certain circumstances.

119. The proceedings of a summary court-martial shall, immediately on promulgation, be forwarded to the officer authorised to deal with them in pursuance of section 102 of the Regulation. After review by him they will be returned to the accused person's corps for preservation in accordance with Rule 132. Review of proceedings.

SECTION 4.—GENERAL PROVISIONS.

Witnesses and evidence.

120. The prosecutor or, in the case of trials by summary court-martial, the court is not bound to call all the witnesses whose evidence is in the summary of Calling all prosecutor's witnesses.

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evidence or whom the accused has been informed they intend to call, but they should ordinarily call such of them as the accused desires, in order, that he may cross-examine them, and shall, for this reason, so far as practicable, secure the attendance of all such witnesses.

Calling of witness whose evidence is not contained in summary.

121. If the prosecutor or (in the case of a summary court-martial) the court intends to call a witness whose evidence is not contained in any summary given to the accused, notice of the intention shall be given to the accused a reasonable time before the witness is called; and if such witness is called without such notice having been given, the court shall, if the accused so desire it, either adjourn after taking the evidence of the witness, or allow the cross-examination of such witness to be postponed, and the court shall inform the accused of his right to demand such adjournment or postponement.

List of witnesses of accused.

122. The accused shall not be required to give to the prosecutor or court a list of the witnesses whom he intends to call, but it shall rest with the accused alone to secure the attendance of any witness whose evidence is not contained in the summary, and for whose attendance the accused has not requested steps to be taken as provided by Rules 23 (a).

Procuring attendance of witnesses.

123. (a) In the case of trials by general or district court-martial the convening officer, or, after the assembly of the court, the president, shall take proper steps to procure the attendance of the witnesses whom the prosecutor or accused desires to call, and whose attendance can reasonably be procured, but the person requiring the attendance of a witness may be required to undertake to defray the cost (if any) of his attendance.

(b) The court shall, in the case of trials by summary court-martial, take proper steps to procure the attendance of the witnesses whom the accused desires to call and whose attendance can reasonably be procured, but the accused may be required to undertake to defray the cost (if any) of their attendance.

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124. If such proper steps as mentioned in the preceding rule have not been taken as to any witness, or if any witness whose attendance could not be reasonably procured before the assembly of the court is essential to the prosecution or defence, the court shall—

(a) take steps to procure the issue of a commission for the examination of such witness; or

(b) if it is a general or district court-martial, adjourn and report the circumstances to the convening officer; or

(c) if it is a summary court-martial, adjourn to enable the witness to attend, or adopt such other course as appears to the officer holding the trial best calculated to do justice.

125. During the trial a witness, other than the prosecutor shall not, except by special leave of the court, be permitted to be present in court while not under examination and if, while he is under examination, a discussion arises as to the allowance of a question, or the sufficiency of his answers, or otherwise as to his evidence, he may be directed to withdraw.

126. An oath or affirmation shall be administered to every witness, before he gives his evidence by a member of the court, the judge-advocate, the superintending officer or some other person empowered by the court in one of the following forms or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the witnesses.

Form of oath.

“You do swear that what you shall state shall be the truth, the whole truth, and nothing but the truth. So help you God”.

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The first person may, when necessary, be substituted for the second in this form of oath, and the words "So help you God" omitted or varied.

Form of affirmation.

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth".

Mode of
questioning
witness.

127. (a) Every question may be put to a witness orally by the officer holding the trial, the prosecutor, accused, or judge-advocate, and the witness will forthwith reply, unless an objection is made by the court, judge-advocate, prosecutor, or accused, in which case he shall not reply until the objection is disposed of. The witness shall address his reply to the court.

(b) The evidence of a witness as taken down shall be read to him after he has given all his evidence and before he leaves the court, and shall, if necessary, be corrected.

(c) If the witness denies the correctness of any part of the evidence when the same is read over to him, the court may instead of correcting the evidence, record the objection made to it by the witness.

(d) If the evidence is not given in English or Urdu and the witness does not understand that language the evidence as recorded shall be interpreted to him in the language in which it was given, or in a language which he understands.

Question to
witnesses by
court or
judge-advocate.

128. (a) At any time before the time for the second address of the accused (or at a summary court-martial at any time before the finding of the court), the officer holding the trial, the judge-advocate and any member of the court may, subject to the provisions of this rule, address any question to a witness.

(b) At a general or district court-martial such questions shall only be addressed to witnesses with the

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permission of the court and through the officer conducting the proceedings.

(c) Upon any such question being answered, the officer holding the trial or conducting the proceedings shall also put to the witness any question relative to that answer which he may be requested to put by the prosecutor or the accused, and which the court deems reasonable.

129. (a) At the request of the prosecutor or accused person a witness may, by leave of the court, be re-called at any time before the time for the second address of the accused (or at a summary court-martial at any time before the finding of the court), for the purpose of having any question put to him through the officer holding the trial or conducting the proceedings.

Re-calling of witnesses and calling of witnesses in reply.

(b) A witness may, in special cases, be allowed by the court to be called or re-called by the prosecutor before the time for the second address of the accused, for the purpose of rebutting any material statement made by a witness for the defence upon his examination by the accused on any new matter which the prosecutor could not reasonably have foreseen.

(c) Where the accused has called witnesses to character, the prosecutor, before the time for the second address of the accused, may call or re-call witnesses for the purpose of proving a previous conviction or entries in the defaulters' book against the accused.

(d) The court may call or re-call any witness at any time before the finding, if it considers that it is necessary for the ends of justice.

Address.

130. All addresses by the prosecutor and the accused and the summing-up of the judge-advocate may either be given orally or be in writing, and, if in writing, shall be read in open court.

Address may be in writing.

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Insanity.

Provision as to finding of insanity.

131. Where the court finds either that the accused is of unsound mind and consequently incapable of making his defence or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the president or the officer holding the trial shall date and sign the finding; and the proceedings, upon being signed by the judge-advocate, or superintending officer, if any, shall be at once transmitted to the confirming officer or the prescribed officer, as the case may be, to whom the case is reported under sub-section (1) of section 103-A of the Regulation.

Preservation of proceedings.

Preservation of proceedings.

132. (a) The proceedings of a court-martial (other than a summary court-martial) shall, after promulgation, be forwarded as circumstances require, to the office of the General Staff Officer, and there preserved for not less, in the case of a general court-martial, than seven years, and in the case of any other court-martial than three years.

(b) The proceedings of a summary court-martial shall be preserved for not less than three years, with the records of the corps or department to which the accused belonged.

Right of person tried to copies of proceedings.

133. Every person tried by a court-martial shall be entitled on demand, at any time after the confirmation of the finding and sentence, when such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings, a copy thereof, including the proceedings upon revision, if any, upon payment for the same of seven annas for the first two hundred words, and half that rate for each subsequent two hundred words, or part thereof.

Loss of proceedings.

134. (a) If the original proceedings of a court-martial, or any part thereof, are lost, a copy thereof, if any, certified by the president, the judge-advocate, the superintend-

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

ing officer or the officer holding the trial, may be accepted in lieu of the original.

(b) If there is no such copy, and sufficient evidence of the charge, finding, sentence, and transactions of the court can be procured, that evidence may, with the assent of the accused, be accepted in lieu of the original proceedings, or part thereof lost.

(c) In any case above in this rule mentioned the finding and sentence, if requiring confirmation, may be confirmed, and shall be as valid as if the original proceedings, or part thereof, had not been lost.

(d) If, in a case where confirmation of a finding or finding and sentence, is required, the proceedings, or part thereof, were lost before confirmation, and there is no such copy or evidence, or the accused refuses such assent, as above-mentioned, the accused may be tried again, and on the issue of an order convening the court for the trial, the finding and sentence of the previous court, of which the proceedings were so lost, shall be null.

Irregular procedure when no injustice is done.

135. Whenever it appears that a court-martial had jurisdiction to try any person and that person was charged with some offence of offences under the Regulation, and was shown by legal evidence to have been guilty of the offence or one of the offences charged, the finding in respect of the offence or offences of which he is so shown to be guilty, and the sentence may (if confirmation is necessary) be confirmed, and shall, if so confirmed, and in all cases where confirmation is not necessary, be valid, notwithstanding any deviation from these rules, or any defect or objection, technical or other, unless it appears that any injustice has been done to the offender, and where any finding and sentence are otherwise valid they shall not be invalid by reason only of a failure to administer an oath or affirmation to the interpreter, shorthand writer, or writer; but nothing in this rule shall relieve an officer from any responsibility for any wilful or negligent disregard of any of these rules.

Validity of irregular procedure in certain cases

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Offences of witnesses and others.

Offence of
witnesses and
others.

136. When any court-martial is of opinion that there is ground for inquiring into any offence specified in section 38 of the Regulation and committed before it or brought under its notice in the course of its proceedings, or into any act done before it or brought under its notice in the course of its proceedings which would, if done by a person subject to the Regulation, have constituted such an offence, such court-martial may proceed as follows, that is to say:—

(a) If the person who appears to have committed the offence is subject to the Regulation, the court may bring his conduct to the notice of the proper military authority, and may also order him to be placed in military custody with a view to his punishment by an officer exercising authority under section 20 of the Regulation or to his trial by court-martial.

(b) Omitted.

(c) If the person who appears to have done the act is not subject to the Regulation, then in the case of acts which would, if done by a person subject to the Regulation, have constituted an offence under clause (a) of section 38 of the Regulation, the officer who summoned the witness to appear or the officer conducting the proceedings of the court-martial, as the case may be, may forward a written complaint to the nearest Magistrate of the first class having jurisdiction, and in the case of acts which would, if done as aforesaid, have constituted an offence under clause (b) or clause (c) of the said section, the court, after making any preliminary enquiry that may be necessary, may send the case to the nearest Magistrate of the first class having jurisdiction for enquiry or trial in accordance with section 476 of the Code of Criminal Procedure, 1969.

SECTION 5. — SUMMARY GENERAL COURTS-MARTIAL.

The following rules in this Chapter, shall not save as hereinafter mentioned, apply to summary general

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

courts-martial which shall be subject to the following rules:-

137. The court may be convened and the proceedings of the court recorded in accordance with the form in the third appendix to these rules, with such variations as the circumstances of each case may require. Convening the court and record of proceedings.

138. The statement of an offence may be made briefly in any language sufficient to describe or disclose an offence under the Regulation. Charge.

139. The court may be sworn at the same time to try any number of accused persons then present before it, but, except so far as accused persons are tried together for an offence committed collectively, the trial of each accused person will be separate. Trial of several accused persons.

140. (a) The names of the president and members of the court shall be read over to the accused who shall thereupon be asked if he objects to be tried by any of these officers. Challenges.

(b) Any objection will be decided as provided for in section 80 of the Regulation—the vacancies being filled from among the waiting members (if any) or by fresh members being appointed by the convening officer.

141. (a) As soon as the court is constituted with the proper number of officers who are not objected to, or the objections to whom have been over-ruled, an oath or affirmation shall be administered to every member in such of the forms laid down in Rule 35 as shall be appropriate, or in such other form to the same purport as the court ascertain to be according to his religion or otherwise binding on his conscience. Swearing affirming the court.

(b) If an interpreter or superintending officer has been appointed, the appropriate oath or affirmation, as laid down in Rule 36, shall be administered to him.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

(c) All oaths and affirmations shall be administered by a member of the court or by some person empowered by the court to do so.

Arriagnment

142. When the court are sworn or affirmed, the president shall state to the accused then to be tried, the offence with which he is charged, with, if necessary, an explanation giving him full information of the act or omission with which he is charged and shall ask the accused whether he is guilty or not of the offence.

Plea to jurisdiction.

143. If a special plea to the general jurisdiction is offered by the accused, and is considered by the court to be proved, the court shall report the same to the convening officer.

Evidence:

144. (a) The witnesses for the prosecution will be called and the accused shall be allowed to cross-examine them and to call any available witnesses for his defence.

(b) An oath or affirmation as laid down in Rule 126 shall be administered to every witness, before he gives his evidence, by one of the persons specified in that rule.

Defence.

145. The accused shall be asked what he has to say in his defence, and shall be allowed to make his defence. He may be allowed to have any person to assist him during the trial, whether a legal adviser or any other person.

Record of the evidence and defence.

146. The president of the Court shall take down or cause to be taken down a brief record of the evidence of the witnesses at the trial and of the defence of the accused; the record so taken down shall be attached to the proceedings:

Provided that, if it appears to the convening officer that military exigencies or other circumstances prevent compliance with this provision, he may direct that the trial may be carried on without any such brief record being taken down.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

If the accused pleads "Guilty" the summary of evidence, if any, may be read and attached to the proceedings, and it shall not be necessary for the Court to hear witnesses for the prosecution respecting matters contained in the summary of evidence so read.

147. The court shall then be closed to consider its finding. If the finding on any charge is "guilty" the court may receive any evidence as to previous convictions and character which is available. The court shall then deliberate in closed court as to its sentence. Finding and sentence.

148. (a) If the proceedings do not require confirmation, the result shall be announced in open court and the sentence carried into effect as soon as possible. Proceedings after sentence or finding.

(b) If the proceedings require confirmation they shall be transmitted without delay to the confirming officer and the sentence (if any) carried out as soon as possible after his confirmation has been received.

149. (a) A summary general court-martial may adjourn from time to time and from place to place and may when necessary view any place. Adjournment.

(b) The proceedings shall be held in open court, in the presence of the accused, except on any deliberation among the members, when the court may be closed.

150. The foregoing rules—59 (Mitigation of sentence on partial confirmation), 61 (Confirmation notwithstanding informality in or excess of punishment), 80 (Transmission of proceedings after finding), 131 (Provision as to finding of insanity), 132 (Preservation of proceedings), 133 (Right of person tried to copies of proceedings), 134 (Loss of proceedings), and 135 (Validity of irregular procedure in certain cases)—shall, so far as practicable, apply as if a summary general court-martial were a district court-martial. Application of rules.

151. Any statement in an order convening a summary general court-martial as to the opinion of the convening officer shall be conclusive evidence of that Evidence of opinion of convening officer.

CHAPTER IV—*Investigation of charges and trial by Court-martial* (continued).

opinion, but this rule shall not prejudice the proof at any time of any such opinion when not so stated.

SECTION 6.—EXECUTION OF SENTENCES.

Committal
warrants.

152. A warrant for the committal of a person sentenced by a court-martial to a civil prison under the provisions of section 107 of the Regulation shall be in one of the forms given in the Fourth Appendix to these rules. Such warrant shall be signed by the commanding officer of the prisoner or by his staff officer, if any.

Warrants
under sec-
tion 109 of
the Regula-
tion.

153. Any warrant issued under the provisions of section 109 of the Regulation shall be in one of the forms given in the Fourth Appendix to these Rules, and shall be signed by the officer making the order in pursuance of which such warrant is issued, or by his staff officer.

Sentence
of dismissal
or suspen-
sion.

154. (a) A sentence of dismissal awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under sentence, or from such subsequent date as may be specified by the commanding officer at the time of such promulgation:

Provided that, when dismissal is combined with imprisonment which is carried out in military custody or with field punishment, the dismissal shall not take effect until the date on which the prisoner is duly released from military custody, or until the completion of the field punishment, unless such field punishment is remitted by competent authority:

Provided also that, when dismissal is combined with imprisonment for life or with imprisonment which is carried out in a civil prison, the dismissal shall not take effect until the date on which the prisoner is received into a civil prison.

(b) A sentence of suspension awarded by a court-martial shall, if no confirmation is necessary, take effect from the date on which it is signed by the president; if confirmation is necessary, such sentence shall take effect from the date on which, having duly confirmed, it is communicated to the offender.

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(continued).

SECTION 7.—FIELD PUNISHMENT.

155. (1) A court-martial or an officer exercising authority under section 20 of the Regulation may, for the purpose of awarding field punishment under the Regulation sentence an offender for a period not exceeding, in the case of a court-martial, three months, and in the case of such an officer, twenty-eight days, to one of the following punishments, namely:—

(a) Field Punishment No. 1

(b) Field Punishment No. 2

(2) Where an offender is sentenced to field punishment No. 1, he may, during the continuance of his sentence, unless the court-martial or the officer, as the case may be, otherwise directs, be punished as follows:—

(a) He may be kept in irons, that is to say in fetters or hand-cuffs or both, — fetters and hand-cuffs, and may be secured so as to prevent his escape.

(b) When in irons, he may be attached for a period or periods not exceeding two hours in any one day to a fixed object, but he must not be so attached during more than three out of any four consecutive days, nor during more than twenty-one days in all.

Explanation 1.—The offender must be attached so as to be standing firmly on his feet which, if tied, must not be more than twelve inches apart, and it must be possible for him to move each foot at least three inches. If he is tied round the body there must be no restriction of his breathing. If his arms or wrists are tied, there must be six inches of play between them and the fixed object. His arms must hang either by the side of his body or behind his back.

Explanation 2.—For the purpose of this punishment irons should be used when available but straps or

CHAPTER IV—*Investigation of charges and trial by Court-martial*—(concluded).

ropes may be used in lieu of them when necessary. Any straps or ropes used for this purpose must be of sufficient width to inflict no bodily harm, and leave no permanent mark on the offender.

(c) He may be subjected to the like labour, employment and restraint, and dealt with in like manner as if he were undergoing a sentence of rigorous imprisonment.

(3) Where an offender is sentenced to field punishment No. 2, the provisions of sub-rule (2) with respect to field punishment No. 1 shall apply in his case except that he shall not be liable to be attached to a fixed object as provided in clause (b) of that sub-rule.

(4) Every portion of a field punishment shall be inflicted in such a manner as is calculated not to cause injury or leave any permanent mark on the offender; and a portion of a field punishment must be discontinued upon a report by a responsible medical officer that the continuance of that portion would be prejudicial to the offender's health.

(5) Field punishment will be carried out regimentally when the unit to which the offender belongs or is attached is actually on the move, but when the unit is halted at any place where there is a provost-marshal the punishment will be carried out under the orders of that officer.

(6) When the unit to which the offender belongs or is attached is actually on the move, an offender awarded field punishment No. 1 shall be exempt from the operation of clause (b) of sub-rule (2), but all offenders awarded field punishment shall march with their unit, carry their arms and accoutrements, perform all their military duties as well as extra fatigue duties, and be treated as defaulters.

CHAPTER V.

COURTS OF INQUIRY.

Losses or thefts of arms.

156. (a) Whenever any weapon or part of a weapon which forms part of the equipment of a half squadron, battery, company or other similar unit, and in respect of the loss or theft of which a fine may be imposed under rule 157 is lost or stolen, a court of inquiry shall be assembled, under the orders of the officer commanding the Brigade Area, to investigate the circumstances under which the loss or theft occurred.

Court of inquiry when rifle etc. are lost or stolen.

(b) The officer who assembled the court shall direct it to record an opinion as to the circumstances of the loss or theft.

157. (a) The officer commanding the Brigade Area shall then record his opinion on the circumstances of the loss or theft, and the Army Minister may on his report, impose for each weapon or part of a weapon lost or stolen collective fines to the extent hereinunder specified on the officers, non-commissioned officers, and men of such unit or upon so many of them as he considers should be held responsible for the occurrence.

Collective fine may be imposed.

	Rs.
Maxim or Vickers Gun ...	1,600
Hotchkiss or Lewis Gun ...	1,000
Rifle or Carbine ...	800
Pistol ...	175
Barrel of a Machine Gun ...	100
Bolt of a rifle, carbine or Lewis Gun	50
Magazine of a Lewis Gun ...	50
Lock of a Maxim or Vickers Gun...	50
Breech Block of a Hotchkiss Gun ...	50
Grenade ...	20

CHAPTER V — *Courts of Inquiry* — (continued).

(b) Such fine will be assessed as a percentage on the pay of the individuals on whom it falls.

Regulation for courts of inquiry other than courts of inquiry held under section 126 of the Regulation.

158. (a) A court of inquiry is an assembly of officers directed to collect evidence, and, courts of inquiry if so required to report with regard to any matter which may be referred to them.

(b) A court of inquiry may be assembled by the officer in command of any body of troops, whether belonging to one or more corps.

(c) The court may be composed of any number of officers of any rank, and of any branch or department of the service, according to the nature of the investigation.

(d) The court shall be guided by the written instructions of the authority who assembled the court. The instructions shall be full and specific, and shall state the general character of the information required. They shall also state whether a report is required or not.

(e) Previous notice should be given of the time and place of the meeting of a court of inquiry, and of all adjournments of the court, to all persons concerned in the inquiry except a prisoner of war who is still absent.

(f) Save in the case of a prisoner of war who is still absent, whenever any inquiry affects the character or military reputation of a person subject to military law, full opportunity must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence, in his opinion, affects his character or military reputation, and producing any witnesses in defence of his character or military reputation.

CHAPTER V—*Courts of Inquiry*—(continued).

(g) It is the duty of a court of inquiry to put such questions to a witness as they think desirable for testing the truth or accuracy of any evidence he has given, and otherwise for eliciting the truth.

(h) When a court of inquiry is held on prisoners of war, and in any other case in which the officer who assembled the court has so directed, the evidence shall be taken on oath or affirmation, in which case the court shall administer the same oath or affirmation to witnesses as if the court were a court-martial.

The officer who assembled the court shall, when the court is held on a returned prisoner of war or on a prisoner of war who is still absent, direct the court to record their opinion whether the person concerned was taken prisoner through his own wilful neglect of duty or whether he served with or under or aided the enemy he shall also direct the court to record their opinion in the case of a returned prisoner of war, whether he returned, as soon as possible, to the service, and in the case of a prisoner of war still absent whether he failed to return to the service when it was possible for him to do so.

The officer who assembled the court shall also record his own opinion on these points. In other cases the court shall give no opinion on the conduct of any person unless so directed by the officer who assembled the court.

(i) The members of the court shall not themselves be sworn or affirmed, but when the court is a court of inquiry on recovered prisoners of war the members shall make the following declaration:—

I—A. B., do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which became a prisoner of war according to the true spirit and meaning of the Regulation of the Army; and I do further declare, upon my honour that I will not on any account, or at any time, disclose or discover my own vote or

CHAPTER V—*Courts of Inquiry*—(continued).

opinion, or that of any particular member of the court, unless required to do so by competent authority.

(j) The court may be re-assembled as often as the officer who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness, or recording further information.

(k) The whole of the proceedings of a court of inquiry shall be forwarded by the president to the officer who assembled the court.

(l) The proceedings of a court of inquiry, or any confession, statement, or answer to a question made or given at a court of inquiry, shall not be admissible in evidence against a person subject to Military-law, nor shall any evidence respecting the proceedings of the court be given against any such person except upon the trial of such person for wilfully giving false evidence before that court.

(m) Any person subject to the Regulation who is tried by court-martial in respect of any matter or thing which has been reported on by a court of inquiry, and unless the Commander-in-Chief sees reason to order otherwise, any person so subject whose character or military reputation is, in the opinion of the said Commander-in-Chief, affected by anything, in the evidence before, or in the report of a court of inquiry, shall be entitled to a copy of the proceedings of the court, including any report made by the court, on payment at the rate laid down in Rule 133 for copies of the proceedings of courts-martial.

Regulations for Courts of inquiry under section 126 of the regulation for the purpose of determining the Illegal absence of persons subject to that regulation.

Courts of
inquiry as
to illegal
absence

159. (a) A court of inquiry under section 126 of the Regulation shall, when assembled, require the attendance of such witnesses as they think sufficient to

CHAPTER V—*Courts of Inquiry*—(concluded).

prove the absence and other facts specified as matters of inquiry in that section. under section 126 of the Regulation.

(b) They shall take down the evidence given them in writing and at the end of the proceedings shall make a declaration of the conclusions at which they have arrived in respect of the facts they are assembled to inquire into.

(c) The commanding officer of the absent person shall enter in the court-martial book of the corps or department a record of the declaration of the court, and the original proceedings will be destroyed.

(d) The court of inquiry shall examine all witnesses who may be desirous of coming forward on behalf of the absentee, and shall put such questions to them as may be desirable for testing the truth or accuracy of any evidence they have given, and otherwise for eliciting the truth, and the court in making their declaration shall give due weight to the evidence of all such witnesses.

(e) A court of inquiry shall administer the same oath or affirmation to the witnesses as if the court were a court-martial, but the members of such court shall not themselves be sworn or affirmed.

CHAPTER VI.

PRESCRIBED OFFICERS, AUTHORITIES AND OTHER MATTERS.

160. All powers which may under the Regulation and these Rules, be exercised by the Officer Commanding a Brigade Area shall, as regards persons subject to the said Regulation who may be serving under his orders, be exercised on active service outside the State by the Officer Commanding an Army, Army Corps, Division, Brigade, or Independent Brigade under whom His Highness' Forces may be serving.

Prescribed officers under section 6 of the Regulation.

CHAPTER VI—*Prescribed officers, authorities and other matters—(continued).*

"Corps"
prescribed
under sec-
tion 7 (9)
of the Re-
gulation.

161. (a) Each of the following separate bodies of persons subject to the Regulation shall be a "corps" for the purpose of Chapter II and section 30 (c) of the said Regulation and of Chapters II and III of these Rules.

(ii) Each regiment of Cavalry.

(iii) The Artillery.

(xiii) Each regiment or each ungrouped battalion of Infantry, or Rifles (as the case may be).

(xiv) The Jammu and Kashmir Army Service Corps.

(xv) The Jammu and Kashmir Hospital Corps.

(xvi) The Jammu and Kashmir Army Veterinary Corps.

(xx) Any other separate body of persons subject to the Regulation employed on any service and not attached to any of the above corps or to any department.

(b) Every unit in which a court-martial book is maintained shall be a "corps" for the purposes of section 126 of the Regulation and Rule 159.

(c) For the purposes of every other provision of the said Regulation and rules each of the following separate bodies shall be a "corps":—

(i) Each regiment of cavalry or battalion of infantry or rifles.

(iv) Each Brigade, group or similar body of Artillery.

(v) Each unbrigaded battery or section of Artillery.

CHAPTER VI—*Prescribed officers, authorities and other matters*—(continued).

- (xi) Each company or depot of the Jammu and Kashmir Army Service corps.
- (xi-a) Each Temple Company when not attached to another body.
- (xii) Each company of the Hospital Corps.
- (xiii) Each section of the Army Veterinary Corps.
- (xv) Any separate body of persons subject to the Regulation which is a "corps" under the provisions of clause (A) (XX) of this Rule.

161-A. (a) The prescribed officer for the purposes of section 14 of the Regulation shall, as regards Military Medical pupils be the Director of Medical Service.

Prescribed officers under section 14 of the Regulation.

162. The authorities empowered to reduce a non-commissioned officer to lower grade or to the ranks shall, on active service include the officer commanding the forces in the field.

Prescribed officers under sections 19 of the Regulation.

162-A. The prescribed officer for the purposes of section 49-A of the Regulation shall be the officer commanding the forces in the field, or in the case of a sentence which he confirms or could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or brigade of the Indian or British Army under which His Highness' Forces may be serving.

Prescribed officers under section 49-A of the Regulation.

163. Any penal deduction from the pay and allowances of a person subject to the Regulation, made under Chapter VII thereof may be remitted as hereinafter provided:—

Prescribed authorities under section 52 of the Regulation.

(a) Any penal deduction from the pay and allowances of any such person may be remitted by His Highness the Maharaja Bahadur.

CHAPTER VI—*Prescribed officers, authorities and other matters*—(continued).

(b) The commanding officer of any such person who has been absent without leave for a period not exceeding five days may, unless the person is convicted by a court-martial on a charge for such absence, remit the forfeiture of pay and allowances to which that absence renders him liable.

(c) A forfeiture of pay and allowances incurred by any such person owing to his absence as a prisoner of war may (unless it shall have been proved before a court of enquiry that he was taken prisoner, through his own wilful neglect of duty, or that he served with or under, or aided, the enemy, or that he did not, as soon as possible, return to the service) be remitted by the Commander-in-Chief, by the Army Minister or by the officer commanding the forces in the field.

Prescribed authorities under section 52-A of the Regulation.

163-A. The prescribed authorities for the purposes of section 52-A of the Regulation shall be the Commander-in-Chief and the Army Minister.

Prescribed authorities under sections 69 and 70 of the Regulation

164. The prescribed military authority for the purpose of sections 69 and 70 of the Regulation shall be the Army Minister.

Prescribed officer under section 102 of the Regulation.

164-A. The prescribed officer for the purposes of section 102 of the Regulation shall, whenever any unit is temporarily withdrawn from its territorial area, be the officer, not being below the rank of field officer, commanding the corresponding area within which the trial is held :

Provided that, when the officer who held the trial is himself the commander of such area, he shall forward the proceedings to superior authority.

When the trial is held on board a ship the prescribed officer shall be the officer commanding the troops on board the ship, or the officer who would have had power to deal with the proceedings had the trial been held at the port of disembarkation.

CHAPTER VI—*Prescribed officers, authorities and other matters—(continued).*

Provided that, when the officer who held the trial is himself the officer commanding the troops on board the ship, he shall forward the proceedings to the authority at the port of disembarkation.

164-AA. (1) The prescribed officer for the purposes of sub-section (1) of section 103-A of the Regulation shall be. --

Prescribed officers and manner of custody under section 103-A of the Regulation.

In the case of a trial by summary court-martial.

The Authority empowered to deal with the proceedings of such a court under section 102 of the Regulation.

In the case of a trial by summary general court-martial.

The convening officer or any authority superior to him.

(2) The prescribed officer for the purposes of sub-section (5) of section 103-A of the Regulation shall be the officer commanding the brigade within the area of whose command the accused is in custody or is detained, and, in the case of an accused who has been found by a summary general court-martial to be of unsound mind, shall include the officer who has power to convene a summary general court-martial for the trial of that accused; and, in the case of an accused who has been found by a summary court-martial to be of unsound mind and who is in the custody of or is detained under the charge of, the corps, department or detachment to which he belongs, shall include the commanding officer of that corps, department or detachment:

Provided that, where an officer who proposes to act as a prescribed officer under sub-section (5) of section 103-A of the Regulation is under the command of the officer who has taken action in the case under sub-section (3) of that section, he shall ordinarily obtain the approval of such officer, before he acts; but, if he is of opinion that military exigencies, or the necessities of discipline render it impossible or inexpedient to obtain such approval, he may act without obtaining such approval but shall report his action and the reasons therefor to such officer.

CHAPTER VI *Prescribed officers, authorities and other matters*—(continued).

(3) For the purposes of sub-section (3) of section 103-A of the Regulation the manner in which an accused person shall be kept in custody shall be as follows :—

The accused shall be confined in such manner, as may, in the opinion of the proper military authority, be best calculated to keep him securely without unnecessary harshness, as he is not to be considered as a criminal but as a person labouring under a disease.

Prescribed officers under section 112 of the Regulation.

164-B. (b) The prescribed officer for the purposes of section 112 of the Regulation shall be :—

(a) As regards persons undergoing sentence in a civil prison or any other place.

The Army Minister.

(b) As regards persons convicted on active service.

The officer commanding the forces in the field.

Prescribed officer under section 91-A of the Regulation.

164-C. The prescribed officer for the purposes of sub-section (1) of section 91-A of the Regulation shall be the officer commanding the brigade to which the person appears to have belonged or alleges that he belongs or had belonged.

Prescribed persons under sections 114 & 115 of the Regulation.

165. (a) The prescribed person for the purposes of section 114 of the Regulation shall be the Accountant General.

(b) The prescribed person for the purposes of section 115 of the Regulation shall be the person referred to in paragraph (A) of this rule, and, so long as the commanding officer has under the Regulation the control of the property of the deceased person or lunatic or of the proceeds of the sale of such property, shall also include such commanding officer.

APPENDICES.

FIRST APPENDIX.

ENROLMENT FORM.

Form No. I.—Combatants.

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the Government of Jammu and Kashmir and, save as is hereinafter provided, no person shall, by reason of an error in his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

ENROLMENT OF

No. _____ Name _____ as a
 Combatant in the _____ Corps.
 Department.

(a) Class in which the person desires
 to be enrolled .. (a) _____

QUESTIONS TO BE PUT BEFORE ENROLMENT.

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the following eight questions, you will be liable to be punished as provided in the Jammu and Kashmir Army Regulation.

1. What is your name ? .. 1. _____
2. What is your father's name ? .. 2. _____
3. What is your religion, class and tribe ? 3. _____
4. What is your Village, Thana, Tehsil,
 and District ? .. 4. Village _____
 Thana _____
 Tehsil _____
 District _____
5. Have you ever been imprisoned by
 the Civil Power ? .. 5. _____
6. Do you now belong to His Highness'
 Forces, His Majesty's Forces, the
 Reserve, the Indian Territorial
 Force, the forces of any Indian
 State or to the Nepal State Army ? 6. _____

(a) For use when a recruit is enrolled for service in a special class (e. g. school-master, clerk, artificer, musician, bugler, etc.)

First Appendix—(continued).

7. Have you ever served in His Highness' Forces, His Majesty's Forces, the Reserve, the Indian Territorial Force, the forces of any Indian State, or in the Nepal State Army? If so, state in which and the cause of discharge (b) .. 7. _____
8. Are you in receipt of any allowance from Government? If so, on what account? .. 8. _____
9. Do you desire your former service in His Highness' Forces to reckon towards good conduct pay, pension or gratuity when such are admissible by refunding any gratuity you may have received on or since discharge in not more than 36 monthly instalments commencing from date of re-enrolment? (c) .. 9. _____
10. Are you willing to be enrolled in the? (d) .. 10. _____
11. Are you willing to go wherever ordered, by land, sea or air, and not to allow any caste usage to interfere with your military duty? (If the enrolment is under any special orders of the Government of Jammu and Kashmir for local services, the locality will be indicated in this question after the word "ordered" e. g. in Poonch .. 11. _____
12. Are you willing to be vaccinated or re-vaccinated? .. 12. _____
13. Are you willing to serve until discharged in accordance with the following conditions provided His Highness shall so long require your services? (e) .. 13. _____

Enrolments in special cases when outhorised in time of war or emergency.

When you have served for
you will be entitled to receive your discharge with all convenient speed.

(b) If so, the recruit should be asked to produce his discharge certificate.

(c) To be omitted in cases where no former service is declared in answer to question 7, and in cases in which, under the special orders of the Government of Jammu and Kashmir, former service may be reckoned for these purposes without refund of gratuity.

(d) Enter corps or department in which enrolled.

(e) The set of conditions which is not applicable are to be struck out, and the appropriate period of service is to be entered in the set of conditions which is applicable.

(f) For use on mobilization only in the case of direct enrolment of men not requiring previous training.

Rate of pay for which enrolled. Rs. _____ per mensem.

First Appendix—(continued).

I do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made.

Signature of witness.

Signature of Recruit.

(Thumb impression if recruit is unable to write.)

CERTIFICATE OF ENROLLING OFFICER.—The conditions of service, for which he is now enrolled were read and explained to the above-named person by me (or in my presence). After having cautioned him that if he made a false answer to any of the above questions Nos. 1 to 8, he would be liable to be punished as provided in the Jammu and Kashmir Army Regulation, I put all the above questions to him and his answer to each question has been duly entered as replied to. I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at _____ this _____ day of _____ 19 .

Signature of Enrolling Officer.

ATTESTATION.—CERTIFIED that the above named person took the prescribed _____ oath before me at _____ his _____ affirmation _____ day of _____ 19

Signature of Attesting Officer.

VARIATION OF CONDITIONS AS TO DISCHARGE.—This variation may be repeated, if necessary.

For use when a person (1) *agrees to extend or vary his period of service for such period as may be authorised by the regulations for the time being in force of the Government of Jammu and Kashmir ; or*

(2) *is transferred with his own consent to a class, arm or branch having a period of service different from that in which he was enrolled ; or*

(3) *on commencing with his own consent, training in special duties, agrees to serve for the period required by the regulations for the time being in force of the Government of Jammu and Kashmir from persons trained in such special duties.*

I agree to serve _____ for _____ before being entitled to my discharge. until I shall have completed _____

I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time, should His Highness no longer require my services.

Signature.

Signed in my presence at _____ this _____ day of _____ 19 .

Signature of Commanding Officer.

First Appendix —(continued).

DESCRIPTION ON ENLISTMENT. (See instructions below).

To be completed by R. O. or A. R. O. (a).

Apparent age _____ years. Chest Measurement. { Minimum _____ inches. } (b)
 Height _____ feet _____ inches. { Maximum _____ inches. }

To be completed by Medical Officer.

I consider him* _____ for the Army.

Identification marks
 or
 Cause of unfitness. {

Date _____

Place _____

Medical Officer,

*Insert here "fit" or "unfit."

(a) To be completed by the M. O. of the unit in the case of a recruit enrolled at unit head-quarters.

(b) The measuring tape should be applied evenly but not tightly, its upper edge touching the lower border of the shoulder blades, and its lower edge passing just over the nipples, the arms hanging by the sides. The minimum measurement will be taken after the breath has been expelled from the chest and the maximum, when the chest is fully expanded. There should be a difference of at least two inches between the minimum and maximum measurements.

INSTRUCTIONS.

(1) Previous to the medical inspection of a recruit or his rejection by the R. O. or A. R. O, his name, age, height and chest measurements, together with the name of the corps in which he desires to be enrolled and the answers to questions 1 and 2 should be entered on the form. Subsequent to the medical inspection questions 1 to 14 with the warning as to the penalty for making a false answer to certain of them, must be put to recruit and his answers checked or recorded before his final approval and enrolment.

(2) The form will be forwarded by the Recruiting Officer to the Officer Commanding the Corps of the recruit concerned, immediately on enrolment. After the necessary entries have been transcribed in the sheet-roll of the soldier, it will be attached to the sheet-roll as a permanent record.

TO BE COMPLETED BY THE R. O. OR A. R. O.

Name of recruit _____ Son of _____
 Enrolled for _____ Unit.

* Opinion of R. O. or A. R. O.

* Insert "approved" or "rejected," and if the latter, give reason for rejection.

First Appendix—(continued).

Form No. II. — Non-combatants.

(Persons for whom no special form of enrolment has been prescribed.)

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the Government of Jammu and Kashmir: and, save as is hereinafter provided, no person shall, by reason of an error on his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

ENROLMENT OF

No. _____ Name _____ as a Non-Combatant,
namely (a) _____ in the _____ Corps.
Department.

Questions to be put before Enrolment.

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the following eight questions you will be liable to be punished as provided in the Jammu and Kashmir Army Regulation.

1. What is your name? .. 1 _____

2. What is your father's name? .. 2. _____

3. What is your religion, class and tribe? 3. _____

4. What is your Village, Thana, Tehsil and District? .. 4 _____

{ Village _____
Thana _____
Tehsil _____
District _____

5. Have you ever been imprisoned by the Civil Power .. 5. _____

6. Do you now belong to His Highness' Forces, His Majesty the King Emperors' Forces, the Indian Reserve, the Indian Territorial Force, the Forces of any Indian State or to the Nepal State Army? .. 6. _____

(a) Enter class in which enrolled—e. g., water carrier, cook.

First Appendix - (continued).

7. Have you ever served in His Highness' Forces, His Majesty the King Emperors' Forces, the Indian Reserve, the Indian Territorial Forces, the Forces of any Indian State or in the Nepal State Army? If so, state in which and the cause of discharge (b) 7. _____
- Are you in receipt of any allowance from Government? If so, on what account? .. 8. _____
9. Do you desire your former service in His Highness' Forces to reckon towards pension or gratuity when such are admissible by refunding any gratuity you may have received on or since discharge in not more than 36 monthly instalments commencing from date of re-enrolment? (c) .. 9. _____
10. Are you willing to be enrolled in the _____? (d) .. 10. _____
11. Are you willing to go wherever ordered by land, sea or air, and not to allow any caste usage to interfere with the duties for which you are enrolled .. 11. _____
- (if the enrolment is under any special orders of the Government of Jammu and Kashmir for local service, the locality will be indicated in this question after the word "ordered," e. g., in Poonch.)*
12. Are you willing to be vaccinated or re-vaccinated? .. 12. _____
13. Are you willing to serve until discharged in accordance with the following conditions, provided that His Highness shall so long require your services? (e) .. 13. _____

Enrolments in ordinary cases.

When you have served for.....years from this date you will be entitled to receive your discharge within three months from the date of applying for it unless war is imminent or existing or the establishment or unit to which you belong is ten per cent. below strength, provided that, in the event of your deserting, service between the date of desertion and that of apprehension or surrender shall not reckon as service towards discharge.

(b) If so, the person should be asked to produce his discharge certificate.

(c) To be omitted in cases where no former service is declared in answer to question 7 and in cases in which, under special orders of Government of Jammu and Kashmir, former service may be reckoned for these purposes without refund of gratuity.

(d) Enter Corps or Department in which enrolled.

(e) The set of conditions which is not applicable is to be struck out, and the appropriate period of service is to be entered in the set of conditions which is applicable.

First Appendix — (continued).

Enrolments in special cases when authorised in time of War or Emergency.

When you have served for.....you will be entitled to receive your discharge with all convenient speed.

I.....do solemnly declare that the above answers made by me to the above questions are true and that I am willing to fulfil the engagements made.

Signature of Persons Enrolled.....

Signature of Witness.....

(Thumb impression if recruit is unable to write.)

CERTIFICATE OF ENROLLING OFFICER.

The conditions of service for which he is now enrolled were read and explained to the above-named person by me (or in my presence).

After having cautioned him that if he made any false answer to any of the above questions, Nos. 1 to 8, he would be liable to be punished as provided in the Jammu and Kashmir Army Regulation, I put all the above questions to him and his answer to each question has been duly entered as replied to.

I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at.....this.....day of.....19..

Signature of Enrolling officer.....

ATTESTATION.

(To be completed if the enrolled person is attested.)

CERTIFIED that the above-named person took the prescribed ^{oath} affirmation before me at.....this.....day of.....19..

Signature of Attesting Officer.....

VARIATION OF CONDITIONS AS TO DISCHARGE.

NOTE. This variation may be repeated, if necessary.

For use when the person (1) agrees to extend his period of service for such period as may be authorised by the regulations for the time being in force of the Government of Jammu and Kashmir ; or

(2) is transferred with his own consent to a class, having a period of service different from that in which he was enrolled.

I agree to serve ^{for}.....until I shall have completed before being entitled to my discharge.

First Appendix—(concluded).

THIS PORTION, WHICH MAY BE DETACHED, IS TO BE COMPLETED BY THE R. O. OR ASST. R. O.

Name of recruit _____ Corps _____

*Opinion of R. O. or Asst. R. O. _____

* Insert "approved" or "rejected" and if the latter, give reason for rejection.

SUBSISTENCE, PAY, ADVANCES AND ALLOWANCES TO RECRUITS.

Date of joining recruiting party or from which subsisted.	Date of final approval or rejection by R. O. or A. R. O.	(a) Advance of pay made and (b) amount of bonus paid by R. O. or A. R. O. [N. B.—No bonus is paid in peace.]	Subsistence due to recruit.	REJECTED RECRUITS.			
				Read allowance.	Total due to recruit.	Already disbursed by recruiting party.	Balance paid before R. O. or A. R. O.
		(a)					
		(b)					

R. O.
A. R. O. for _____

This portion is for use on mobilization only in the case of direct enrolment of men not requiring previous training.

Rate of pay for which enrolled Rs. _____ per mensem.

Amount of bonus paid Rs. _____. Amount (if any) still due Rs. _____

Signature of Enrolling Officer.

I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time, should His Highness no longer require my services.

_____ in my presence at _____ this _____ day of _____

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Signature of Commanding Officer.

Kashmir Army Regulation. (Regulation No. 1 of 1888.)

(See instructions below.)

Apparent age _____ years

Chest Measurement. { Minimum _____ inches } (b). { Maximum _____ inches }

Height _____ feet _____ inches.

I consider him * _____ for the Army.

*insert here "fit" or "unfit".

Cause of untithness.

Place

INSTRUCTIONS.—1. In the case of non-combatants the "corps" for the purpose of enrollment and the corps in which a recruit is enrolled will be

purposes of enrolment and the corps in which shown, is as laid down in Rule 161 (A), Jammu and Kashmir Army Regulation Rules.

Previous to the medical inspection of a recruit his name, age, height and weight should be ascertained and the name of the corps in which he is to be employed should be ascertained.

desires to be enrolled and the answers to questions 1 and 2 entered in the form. Subsequent to the medical inspection questions 1 to 14 with the warning as to the penalty for making a false answer to and his answers checked or

certain of them, must be reported and recorded before his final approval and enrollment.

3. This form will be forwarded by the Recruiting Officer to the commanding the "corps" of the recruit concerned and will be attached

to the man's sheet-roll as a permanent record.

(a) To be completed by the M. O. of the unit in the case of a recruit enrolled at head

(b) The measuring tape should be applied across the chest, passing just over the shoulder blades, and its lower edge passing just over the breast. The minimum measurement will be taken after the breath has been expelled from the chest and the maximum when the chest is fully expanded. The arms, hanging by the sides. The minimum measurement will be taken after the breath has been expelled from the chest and the maximum when the chest is fully expanded.

SECOND APPENDIX.

FORMS OF CHARGES.

PART I.*Commencement of charge Sheet.*

The accused [*Number, rank, name, corps*] or
The accused [*name*] being a person subject to the
Military Law [as an officer, as a warrant officer, as a
non-commissioned officer] under provisions of section 2
(1) (c) [and section 3 (1)] of the Jammu and Kashmir
Army Regulation

is charged with—

Second Appendix—(continued).

PART II.

Statement of offence.

OFFENCES IN RESPECT OF MILITARY SERVICE.

SECTION 25.

- (a) Shamefully { abandoning a { garrison
delivered up a { fortress
post
guard } committed to his charge which
it was his duty to defend.
- (b) In presence of an enemy { shamefully casting away his { arms.
intentionally { words { ammunition.
using { [other means] { to induce a person subject to }
{ to discourage a person }
{ subject to military law } from acting against the enemy.
- (c) (1) { Holding correspondence with { the enemy.
Communicating intelligence to { a person in arms against the State.
- (2) Coming to the knowledge of a { correspondence with { the enemy
communication of { a person in arms
intelligence to { against the State
and omitting
to discover it
immediately to
his commanding
or other superior officer.
- (d) Treacherously making known the watchword to a person not entitled to receive it.
- (e) (1) { Assisting { money { an enemy
Relieving { victuals { a person in arms against the State.
with { ammunition }
(2) Knowingly { harbouring { an enemy
protecting { a person in arms against the State.

SECTION 25—contd.

(f) (1) { In time of war During a military operation.	{ intentionally occasioning a false alarm in spreading reports calculated to create	{ action camp garrison quarters. alarm despondency.
(g) When a sentry { over a	{ in time of war alarm State prisoner treasure magazine dockyard	{ sleeping upon his post. quitting his post without being regularly relieved. without leave.
(h) In time of action, leaving his	{ commanding officer post party	{ to go in search of plunder.
(i) In time of war quitting his	{ guard piequet party patrol	{ without being regularly relieved. without leave.
(j) { In time of war During a military operation	{ using criminal force to committing an assault on forcing a safeguard. breaking into plundering injuring destroying	{ a person { bringing { provisions [other necessities] to { camp quarters of His Highness or allied Forces.
(k) On active service committing an offence against the	{ property of an inhabitant of a country in the country in which he was born or	{ for plunder. a house [other place] a field. a garden. [other property].

SECTION 26.

- (a) { Striking
Forcing
Attempting to force } a sentry.
- (b) In time of peace, intentionally occasioning a false alarm in { camp.
garrison.
cantonment.
- (c) { When a sentry { plundering
When on guard { wilfully destroying } property placed under { his charge.
wilfully injuring } charge of his guard.
- (d) When a sentry in time of peace, { sleeping upon his post.
{ quitting his post { without being regularly relieved,
without leave.

MUTINY AND INSUBORDINATION.

SECTION 27.

- (a) { Beginning
Exciting
Causing { another person } to cause } a mutiny.
Conspiring with { other persons }
- (b) Being present at a mutiny and not using his utmost endeavours to suppress the same.
- (c) { Knowing
Having reason to believe in } the existence of { a mutiny,
an intention to mutiny } and failing to give information thereof without delay
a conspiracy against the State, to his commanding or other superior officer.
- (d) { Using
Attempting to use } criminal force to { his superior officer { knowing
Committing an assault on } having reason to believe } him to be such.
- (e) Disobeying the lawful command of his superior officer

... subordinate ... officer in the execution of his office.

- [illegible]

SECTION 29.

- (1) Deserting the service.
- (2) Attempting to desert the service.

SECTION 30.

- (a) (1) Knowingly harbouring a deserter.
- (2) { Knowing
Having reason to believe
- { a person has deserted
a deserter has been harboured by } and { failing to give information thereof without delay
to his own or some other superior officer.
failing to use his utmost endeavour to cause such
deserter to be apprehended.
- { a person to be a { procuring to procure } the enrolment of such person.
deserter and { attempting to procure }
enrolling himself in { the same } corps
department- { another } department-
- (b) { Knowing
Having reason to believe
- (c) Without having first obtained a { corps
regular discharge from his { department

- (d) (1) Absenting himself without leave.
- (2) Without sufficient cause overstaying leave granted to him.
- (e) Having received information from proper authority that the { corps
portion of a
corps
department } to which he belongs has been ordered on active service and failing without sufficient cause to rejoin from leave without delay.
- (f) Without sufficient cause failing to appear at { parade
place } appointed for { exercise
duty.
- (g) Quitting { parade
the line of march } without sufficient cause.
without leave from his superior officer.
- (h) In time of peace quitting his { guard
picquet
patrol } without being regularly relieved
without leave.
- (i) Being found, without proper authority, two miles or upwards from camp.
- (j) Absenting himself without proper authority from his { cantonments
lines } after tattoo;
camp after retreat beating.

DISGRACEFUL CONDUCT.

SECTION 31.

- (a) Dishonestly { misappropriating
converting to his own use } the property of Government entrusted to him,
 { money,
provisions,
forage,
arms,
clothing,
ammunition,
tools,
instruments,
equipments,
military stores }

SECTION 31--contd.

- (b) Dishonestly { receiving { money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments, military stores, } } the property of Govern- { knowing having reason to believe } misappropriated { by a person to whom } it was entrusted. { } retaining
- (c) Wilfully { destroying } Government property entrusted to him. { } injuring
- (d) Committing theft in respect of the pro- { Government. { mess. band. institution. subject to military law. serving with } the army. } } a military { } a person { attached to
- (e) Dishonestly { receiving { Government. { mess. band. institution. subject to military law. serving with } the army. } } retaining { } it to be stolen, the property of
- (f) Such an offence as is mentioned in clause (f) of section thirty-one of the Jammu and Kashmir Army Regulation { defraud { cause wrongful gain to a person. cause wrongful loss to a person. } } with intent to
- (g) (1) Malingering. { } in himself. { } { disease, infirmity, } { Feigning Producing

Second Appendix—(continued).

(3) Intentionally { delaying his cure
aggravating his { disease.
infirmity.

(h) Voluntarily causing hurt to { himself { with intent to render { himself
a person { that person { unfit for service.

(i) (1) Committing an offence of { a cruel { an indecent { kind.
{ an unnatural { an unnatural {

(2) Attempting to commit an offence of { a cruel { an indecent { kind and doing an act towards its commission.
{ an unnatural { an unnatural {

INTOXICATION.

SECTION 32.

Intoxication.

OFFENCES IN RELATION TO PERSONS IN CUSTODY.

SECTION 33.

Releasing without proper authority { a state prisoner
Negligently suffering to escape { an enemy
a person taken in arms against the state } placed under his charge.

SECTION 34.

(a) When in command of a { guard, { refusing to receive a { prisoner { duly committed to his charge.
picquet, { person
patrol, {
(b) { Releasing without proper authority { a prisoner { placed under his charge.
Negligently suffering to escape { a person {
(c) When in military custody leaving such custody before being set at liberty by proper authority.

- (f) Wilfully injuring.
- { his { arms.
ammunition.
equipments.
instruments.
tools.
clothing.
regimental necessaries.
 - property belonging to { Government.
a military { mess.
band.
institution.
a person { subject to military law.
serving with { the army.
attached to {
- (g) { Selling
Pawning { a medal
Destroying { a decoration
Defacing { granted to him.

OFFENCES IN RELATION TO FALSE DOCUMENTS AND STATEMENTS.
SECTION 36.

- (a) Making false accusation against a person subject to military law knowing such accusation to be false.
- (b) In making a complaint under section 17 of the Jammu and Kashmir Army Regulation { knowingly making a false statement affecting the character of person subject to military law.
knowingly and wilfully suppressing a material fact.
- (c) { Obtaining { for him-
Attempt- { self
ing to obtain { for a person.
- { by a false statement which he { know
believed { to be false.
 - by { making { a false entry in a { book.
using { did not believe to be true.
by making a document containing a false statement.
by omitting to make a { true entry.
document containing a true statement.

Second Appendix—(continued).

SECTION 38.—*concl'd.*

- (c) Having been duly { sworn } before { a court-martial } making a
 { affirmed } { a military court competent } { false state-
 to administer an oath or } ment which
 affirmation { he } to be false.
 { did not believe to be true.

MISCELLANEOUS MILITARY OFFENCES.

SECTION 39.

- (a) Behaving in a manner unbecoming the position and character of { an officer.
 { a warrant officer.
- (b) { Striking } a person subject to Jammu and Kashmir Army Regulation { rank.
 { Ill-treating } being his subordinate in { position.
- (c) When in command { at a post } receiving a complaint { beaten } a person,
 { on the march } { that a person under } maltreated } oppressed }
 { his command has } { disturbed } { a fair,
 { committed } { a market,
 { a riot,
 { a trespass,
 and failing to have due reparation made to
 the injured person or to report the case to
 the proper authority.
- (d) By defiling a place { of worship } intentionally { insulting the } of a person.
 [otherwise] { religion, } wounding the } religious feel-
 ings
- (e) Attempting to commit suicide and doing an act towards the commission of the same.
- (f) Being below the rank { sword } without proper } in } camp.
 of warrant officer { bludgeon } authority } about } cantonment.
 and carrying when { (other offensive } going to re- } a town.
 off duty a { weapon) } turning from } a bazar.
 { a bazar.

SECTION 39—*concl.*

Accepting

Obtaining

Agreeing to accept

Attempting to obtain

(g)

for himself

[for any other person]

a gratification

as a

motive

reward

for procuring

the enrolment of a person.

leave of absence

promotion

an advantage

an indulgence

for a person in the service.

Neglecting to obey

(h)

general

garrison

[other]

orders.

An act

An omission

(i)

prejudicial to good order and military discipline.

ATTEMPTS NOT BEFORE PROVIDED FOR.

SECTION 39-A.

Attempting

to . . . (specify offence) attempted

to cause . . . (specify offence) to be committed

and doing an act towards the commission of the same.

ABETMENT.

SECTION 40.

Abetment within the meaning of the Ranbir Dand Bidhi of an offence punishable under the Jammu and Kashmir Army Regulation.

CIVIL OFFENCES.

SECTION 41.

In a place beyond

When on active service in

the State

Committing a civil offence, that is to say, (state the offence as described in the Ranbir Dand Bidhi or other law in force in the State).

Second Appendix—(continued).

SECTION 42.

- (1) { Committing
Attempting to commit
Abetting the commission of } an offence punishable under Chapter VI of the Ranbir Dand Bidhi, that is to say (state the offence described in the Code).
- (2) { Committing
Attempting to commit
Abetting the commission of } { murder
culpable homicide } against a person subject to military law.
- (3) { Voluntarily causing
Attempting to voluntarily cause
Abetting the voluntarily causing of } { hurt
grievous hurt } against a person subject to military law.

Charge for other offences referred to in section 42 will be similarly framed, the offence being stated as described in the Jammu and Kashmir State Ranbir Penal Code (sections 324, 326 to 335 or 506) and the words "against a person subject to military law" added.

Second Appendix—(concluded).

ILLUSTRATION OF CHARGE.

NOTE.—The following is an illustration of a complete charge-sheet, with statement of offence and particulars, as it would be placed before a district court martial :—

Charge-Sheet.

The accused No. 240, Sepoy Mohammad Abdullah,
Kashmir Infantry is charged with.

First
charge Section
27 (e).

Disobeying the lawful command of his superior officer at Jammu— on the 25th Magh 1988, disobeying the lawful command of his superior officer, Jamadar Futteh Khan of the same Unit, to turn out for Commanding Officer's Parade, by not turning out.

Second
charge Section
28 (a).

Being grossly insubordinate to his superior officer in the execution of his office,

in that he

at Jammu, on the 25th Magh, when confined by Jamadar Futteh Khan of the same Unit, on the first charge, said to him "I am a better man than you and will not go to the guard-room by your order", or words to that effect.

A. B.,

Commanding—Kashmir Infantry

JAMMU :
29th Magh 1988.

* To be tried by a district court-martial.

X. Y.,

Commanding Head-quarters, Jammu,
Brigade area (or staff officer, who should
sign for Commanding, Jammu Brigade
Area).

JAMMU :
1st Phagan 1988.

* When the sanction is accorded for the trial of grave offences by summary court-martial (Jammu and Kashmir Army Regulation 74 proviso) similar entry should be made on the charge-sheet.

THIRD APPENDIX.

FORMS AS TO COURTS-MARTIAL.

FORMS FOR ASSEMBLY OF COURTS-MARTIAL.

No. 1—General and District.

Form of order for the Assembly of a General (or Jammu and Kashmir District) Court-Martial under the Jammu and Kashmir Army Regulation. A. F.

Orders by
Commanding the

(Place Date)

The detail of officers as mentioned below will assemble at _____ on the _____ day of _____ for the purpose of trying by a court-martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

(seven officers are not, due regard being had to the public service, available).

The senior officer to sit as President.

MEMBERS.

WAITING MEMBERS.

Judge-Advocate (or Superintending officer)
is appointed Judge-Advocate
Superintending Officer.

INTERPRETER.

is appointed Interpreter.

NOTE.—These members and the waiting members may be mentioned by name, or the number and ranks and the mode of appointment may alone be named.

Third Appendix— (continued).

PROSECUTOR

*

is appointed Prosecutor.

The accused will be warned, and all witnesses duly required to attend.

The proceedings (of which only one copy is required) will be forwarded to

Signed this day of

Jammu
and Kashmir
A. F.

* Here enter any order regarding Counsel—
Jammu and Kashmir Army Regulation Rules 82 and 83.

No. 2—Summary General.

(See combined form for assembly and proceedings below).

No. 3—Declaration for suspension of Rules.

Jammu
and Kashmir
A. F.

*Form of Declaration of Military Exigencies or the
Necessities of Discipline under Rule 25.*

*(the necessities of discipline).

†(or inexpedient).

‡ State the rule or rules which cannot be observed.

(See Rule 25) of

In my opinion [*Military exigencies, namely (state them)] render it (†impossible) to observe the provisions of rules ‡ on the trial of

court-martial assembled pursuant

by the order of the

Signed at

this

day of

A. B.

(INSTRUCTION.—This declaration must be signed by the officer whose opinion is given, and will be annexed to the proceedings. It should not be included in the Convening Order but should be a separate document).

Third Appendix—(continued).

FORMS OF PROCEEDINGS OF COURTS MARTIAL.

Form of proceedings of a General (or District) Court-Martial (including some of the incidents which may occur to vary the ordinary course of procedure, with instructions for the guidance of the Court).

PROCEEDINGS OF A COURT-MARTIAL,
held at _____ on the _____ day of _____ 19____
by order of _____, Commanding _____ day of _____
19 ____ , dated the _____

PRESIDENT.

Rank	Name	Unit
_____	_____	_____

MEMBERS.

Rank	Name	Unit
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____, Judge-Advocate, [or Superintending Officer],
[—Interpreter,]

Trial of *_____ at o'clock the trial commences.

*Here insert No., Rank, Name, and Unit, and appointment (if any).

(1) The order convening the Court is read (Orally translated), and a copy thereof is marked_____ signed the by President (Judge-advocate or Superintending Officer), and attached to the proceedings.

The charge-sheet and the summary of evidence are laid before the Court.

INSTRUCTION.—All documents relating to the Court, or the matters before it, which are intended to form part of the proceedings (such as an order respecting military exigencies, or a letter answering any question referred to the convening officer) at whatever period of the trial they are received should be read in open court, marked so as to identify them, signed by the president (Judge-advocate or Superintending Officer), and attached to the proceedings).

Third Appendix—(continued).

†Here insert reason. ‡Here insert Rank, Name and Unit.

The Court satisfy themselves that is not available to serve owing to † ‡ waiting member takes his place as a member of the court.

The court satisfy themselves as provided by Rules 31 and 32.

§Here state Rank and Name and Unit (if any).

(2) § appears as prosecutor, and takes his place.

The above named, the accused, is brought before the Court.

VARIATIONS.

appears as counsel for the prosecutor.
appears to assist (or as counsel for) the accused.

The names of the president and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?

Answer by No. accused.

(INSTRUCTION.—The questions are to be numbered throughout consecutively in a single series. The letters Q and A in the margin may stand for Question and Answer respectively).

VARIATIONS.

Challenging officers.

Answer.—I object to

Question to accused.—Do you object to any other person?

(This question must be repeated until all the objections are ascertained).

Third Appendix—(continued).

Answer.—

*Question to Accused.—*What is your objection to (the junior officer objected to)?

Answer by accused.—

The accused in support of his objection to requests permission to call etc. etc.
is called into Court, and is questioned by the accused.

The Court is closed to consider the objection.

*Decision.—*The Court disallow the objection.

The Court is re-opened, and the above decision is made known to the accused,

or,

*Decision.—*The Court allow the objection.

The Court is re-opened and the above decision is made known to the accused.

retires.

*Fresh Member.—**
member of the Court.

takes his place as a *Insert Rank, Name and Unit.

(This only applies in the case of there being a waiting member of the Court.)

He appears to the Court to be eligible and not disqualified to serve on this court-martial.

*Question to accused.—*Do you object to be tried by (the fresh member)?

Answer.—

(If he objects, objection will be dealt with in the same manner as the former objection).

Third Appendix—(continued).

Question to the accused.—what is your objection to (the junior of the officers objected to) ?

(This objection will be dealt with in the same manner as the former objection).

The Court adjourn for the purpose of fresh members being appointed,

or,

The Court is of the opinion that in the interests of justice and for the good of the service, it is inexpedient to adjourn for the purpose of fresh members being appointed, because (*here state the reasons*).

At o'clock on the Court resumed their proceedings, and an order appointing fresh officers is read, marked and attached to the proceedings.

The Court satisfy themselves with respect to such fresh officers as provided by Rule 31.

(INSTRUCTION.—The procedure as to challenging fresh officers, and the procedure, if any objection is allowed will be the same as above).

The president and members of the Court, as constituted after the above proceedings, are as follows:—

PRESIDENT.

<i>Rank.</i>	<i>Name.</i>	<i>Unit.</i>
_____	_____	_____

MEMBERS.

<i>Rank.</i>	<i>Name.</i>	<i>Unit.</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Third Appendix—(continued).

The president, members, and judge-advocate (superintending officer) are duly sworn (or affirmed) also any officer under instruction).

INSTRUCTION.—(1) The witnesses if in Court, other than the prosecutor, should be ordered out of the Court at this stage of the proceedings.

(2) Also any interpreter, writer or short hand writer should be now sworn.

Do you object to

as interpreter?

Question to the accused.

A.

(INSTRUCTION.—In case of objection the same procedure will be followed as in the case of an objection to a member of the Court).

Do you object to
(as the case may be)?

as writer or short-hand writer

(INSTRUCTION.—In case of objection the same procedure will be followed as in the case of an objection to a member of the Court).

CHARGE-SHEET.

(3) The charge-sheet is signed by the president (Judge-advocate or Superintending Officer) marked and annexed to the proceedings. Charge sheet.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read? Question to the accused.

A.

(INSTRUCTION.—When there is more than one charge the foregoing question will be asked after each charge is read, the number of the charge being stated.)

(INSTRUCTION.—If the accused pleads guilty to any charge, the provisions of Rule 42 (B) must be complied with, and the fact that they have been complied with must be re-corded.)

VARIATIONS.

The accused objects to the charge.

Question to
the accused.

What is your objection?

A.

Decision.

The Court is closed to consider their decision.

The Court disallow the objection (or, the Court allow the objection, and agree to report to the convening officer)

The Court is re-opened, and the above decision is read to the accused.

The Court proceed to the trial (or adjourn)

Plea to
jurisdiction.

The accused pleads to the general jurisdiction of the Court.

Question to
the accused.

What are the grounds of your plea?

A.

Q.

Do you wish to produce any evidence in support of your pleas?

A.

Witnesses.

Witness is examined on oath (or affirmation).

(INSTRUCTION.—The examination, etc., of the witnesses called by the accused and of any witnesses called by the prosecutor in reply, will proceed as directed below in paragraph (5) and (6). The prosecutor will be entitled to reply after all the evidence is given.)

Decision.

The Court is closed to consider their decision.

The Court allow (or overrule) the plea (or, resolve to refer the point to the convening authority, or decide, specially that).

The Court is re-opened, and the above decision is read to the accused.

The Court proceed to the trial (or adjourn).

Third Appendix—(continued).

VARIATION.

Accused, besides the plea of guilty (or, not guilty), ^{Plea in bar of trial.} offers a plea in bar of trial.

What are the grounds of your plea ?

Question to the accused.

A.

Do you wish to produce any evidence in support of your plea ?

Q.

A.

Witness examined on oath (or affirmation).

Witnesses.

[INSTRUCTION.—The examination, etc., of the witnesses called by the accused, and of any witnesses called by the prosecutor in reply, will proceed as directed below in paragraphs (5) and (6). The prosecutor will be entitled to reply after all the evidence is given.]

The Court is closed to consider their decision.

Decision.

The Court allow the plea and resolve to adjourn (or to proceed to the trial on another charge) or (the Court overrule the plea).

The Court is re-opened, and the above decision is read to the accused.

The Court adjourn (or proceed with the trial on another charge) (or proceed with the trial).

As the accused does not plead intelligibly (or refuses to plead to the above charge, or does not plead guilty to the above charge) the Court enter a plea of "Not guilty". ^{Refusal to plead.}

PROCEEDINGS ON PLEA OF GUILTY.

(4) The accused (*number* *rank*
name *unit*) is found guilty
of the charge (all the charges)
or
is found guilty of the charge, and is found
not guilty of the charge.

Third Appendix — (continued).

[INSTRUCTION.—If the trial proceeds upon any charge to which there is a plea of not guilty, the Court will not proceed upon the record of the plea of guilty until after the finding on those other charges; and in that case the Court will be re-opened and the charge on which the record is guilty must be read to the accused again.]

The accused may in accordance with rule 44 (B) make any statement he wishes in reference to the charge.]

The summary of evidence is read (orally translated) marked signed by the president (judge-advocate or superintending officer), and attached to the proceedings.

[INSTRUCTION.—If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence and to enable the committing officer to know all the circumstances connected with the case will be given in paragraph (5). No address will be allowed.]

VARIATION.

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "guilty" alters the record and enters a plea of "not guilty".

[INSTRUCTION.—The Court will then proceed in respect of the charge as in paragraph (5).]

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No or

The accused in mitigation of punishment says [or if the statement is in writing hands in a written statement, which is read (orally translated) marked signed by the president (judge-advocate or superintending officer), and attached to the proceedings.]

INSTRUCTION.—If the statement of accused is not in writing, and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the statement is not in writing and not delivered by the accused himself, the material portions should be recorded.

In either case any matter which is requested by or on behalf of the accused to be recorded should be recorded and care must be taken, whether a request is made or not, to record every point brought forward in mitigation of punishment.

Third Appendix — (continued).

VARIATION.

The Court give permission to the accused to call witnesses to prove his above statement that (here specify the statement which is to be proved).

[INSTRUCTION.—(1) The examination, etc., of witnesses called in pursuance of this permission will proceed in the same manner as under paragraph (6).]

(2) The procedure as to sentence, recommendation to mercy, and confirmation will be as in paragraphs (11) and (13). Evidence as to character.

Do you wish to call any witnesses as to character? Question to the accused.

Yes. (No).

A.

[INSTRUCTION.—(1) The examination, etc., of witnesses as to character will proceed as in paragraph (6).

(2) Evidence as to character and particulars of service will be taken as in paragraph (11).]

PROCEEDINGS ON PLEA OF NOT GUILTY.

(5) (*If the prosecutor makes an address*). The prosecutor makes the following address, (or, if the address is written, hands in a written address, which is read, (orally translated), marked _____, signed by the president (judge-advocate or superintending officer), and attached to the proceedings.)

[INSTRUCTION.—Where the address of the prosecutor is not in writing, the Court should record so much as appears to them material, and so much as the prosecutor requires to be recorded].

The prosecutor proceeds to call witnesses.

_____ being duly sworn (affirmed) is examined by the prosecutor. First witness for prosecution.

_____ Cross-examined by the accused.

_____ Re-examined by the Prosecutor.

* Here insert his number, rank, name and unit and appointment (if any), or other description.

Third Appendix — (continued).

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded].

The witness withdraws.

VARIATION.

The accused declines to cross-examine this witness.

[INSTRUCTION.—In every case where the accused does not cross-examine a witness for the prosecution this statement is to be made, in order that it may appear on the face of the proceedings that he has had the opportunity given him of cross-examination.]

The Court, at the request of the accused, allow the cross-examination of the witness to be postponed.

The accused (or the prosecutor) objects to the following question :—

The Court is closed to consider their decision.

The Court overrule (or allow) the objection, and the Court is re-opened and the decision announced.

The witness, on his evidence being read to him, makes the following explanation or alteration :—

Examined by the prosecutor as to the above explanation or alteration.

Third Appendix—(continued).

Examined by the accused as to the above explanation or alteration.

The prosecutor and accused decline to examine him respecting the above explanation or alteration.

being duly sworn, (affirmed), is examined by the prosecutor. Second witness for prosecution

(The examination, etc, of this and every other witness proceeds as in the case of the first witness).

At _____ o'clock the Court adjourns until _____ o'clock Adjournment.
on the _____

On the _____ of _____ 19 _____
at _____ o'clock, the Court re-assemble, pursuant to, Second day of adjournment, present the same members as on the _____ of _____

VARIATION.

[INSTRUCTIONS.—(1) If a member is absent, and his absence will reduce the Court below the legal minimum and it appears to the members present that the absent member cannot attend within a reasonable time, the president or senior member present will thereupon report the case to the convening officer.

(2) If the judge-advocate or superintending officer is absent, and cannot attend within a reasonable time, the Court will adjourn, and the president will thereupon report the case to the convening authority (See Rule 90)].

(Rank Name Unit) being absent, Absent member.

(THE ABSENCE IS ACCOUNTED FOR).

A medical certificate (or letter, or as the case may be) is produced, read, marked, and attached to the proceedings.

Third Appendix—(continued).

The Court adjourn until

or,

There being present (not less than the legal minimum) members, the trial is proceeded with.

New Judge-
Advocate.

An order bearing date appointing , to act as judge-advocate in the place of , who , is read marked, signed by the president (Judge-advocate) and attached to the proceedings, and the new judge-advocate duly sworn (affirmed).

The trial is proceeded with.

[INSTRUCTIONS.—(1) If the Court, in consequence of the adjournment having been prolonged by the senior officer on the spot, or otherwise, do not meet on the day to which they previously adjourned, or if the adjournment was until further orders, the words, "pursuant to adjournment" will be omitted from the above form, and the cause of their meeting at the above time will be entered in the proceedings.

(2) If the place of meeting has been altered by orders or otherwise, the place of meeting and the reason for meeting at that place will be entered in the proceedings].

Examination (cross-examination) of continued.

The prosecution is closed.

DEFENCE.

Question to
accused.

Do you intend to call any witness in your defence?

A.

Yes (No).

Q.

Is he a witness as to character only?

A.

Third Appendix—(continued).

VARIATION.

(If the accused is defended by counsel or by an officer having the rights of counsel.)

Do you wish to make any statement in addition to the address made by your counsel (or _____) ?

(6) INSTRUCTIONS.—(1) If the accused calls no witnesses to the facts of the case, adopt this and omit (7).

(2) If the accused is defended by counsel or an officer having the rights of counsel and does not wish to make a statement in addition to the address of such counsel or officer, adopt this and omit (7).

The prosecutor addresses the Court upon the evidence for the prosecution as follows [*or, if the address is written, hands in a written address, which is read (orally translated) marked _____, signed by the president (judge-advocate or superintending officer) and attached to the proceedings.*]

(INSTRUCTION.—Where the address of the prosecutor is not in writing the Court should record so much as appears to them material and so much as the prosecutor requires to be recorded.)

Have you anything to say in your defence ?

Question to
accused.

VARIATIONS.

The Court, at the request of the accused, adjourn until _____ to enable him to prepare his defence.

The accused in his defence says _____ (or hands in a written address, which is read (orally translated), marked _____, signed by the president (Judge-advocate or superintending officer) and attached to the proceedings.

INSTRUCTIONS.—If the address of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the address is not in writing and not delivered by the accused himself the material portion should be recorded.

In either case any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken, whether a request is made or not, to record every point brought forward in the defence or in mitigation of punishment.

Third Appendix - (continued).

First witness as to character.

The accused calls the following witnesses as to character*
is duly sworn (affirmed).

*Here insert his number, rank, name, and unit and appointment (if any), or other description.

Examined by the Accused.

Cross-examined by the Prosecutor.

Re-examined by the Accused.

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded.]

The witness withdraws.

VARIATION.

The prosecutor declines to cross-examine this witness.

The witness, on his evidence being read to him, makes

Third Appendix—(continued).

the following explanation or alteration.

Examined by the accused as to the above explanation or alteration.

Examined by the prosecutor as to the above explanation or alteration.

The accused and prosecutor decline to examine him respecting the above explanation or alteration.

INSTRUCTION.—(7) If the the accused calls witnesses to the facts of the case or if an accused person, being defended by counsel or by an officer having the rights of counsel, wishes to make a statement in addition to the address by such counsel or officer, then omit paragraph (6), and adopt (7).

Have you anyting to say in your defence?

Question to
accused.

VARIATION.

The Court, at the request of the accused, adjourn until _____ to enable him to prepare his defence.

The accused in his defence says _____ (or if his address is in writing, hands in a written address, which is read (orally translated) marked signed by the president (judge-advocate or superintending officer) and attached to the proceedings).

(INSTRUCTIONS.—(1) If the defence of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words,

(2) If the address is not in writing and is not delivered by the accused himself, the material portions should be recorded.

(3) In either case, any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken whether a request is made or not, to record every point brought forward in the defence or in mitigation of punishment).

Third Appendix — (continued).

* Here insert *
his number,
rank, name,
and unit and
appointment
(if any) or
other descrip-
tion.

is duly sworn (affirmed).

Examined by the Accused.

Cross-examined by the Prosecutor.

Re-examined by the Accused.

Examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded]

The witness withdraws.

VARIATIONS.

The prosecutor declines to cross-examine this witness.

Third Appendix — (continued).

The witness, on his evidence being read to him, makes the following explanation or alteration.

Examined by the accused as to the above explanation or alteration.

Examined by the prosecutor as to the above explanation or alteration.

The accused and prosecutor decline to examine him respecting such explanation or alteration.

(Where the accused is defended by counsel or, an officer having the rights of counsel.) The accused makes the following statement in addition to the address by his counsel (or). (a)

The prosecutor (by leave of the Court) calls witnesses in reply.

(a) The accused must make his statement at the close of the case for the prosecution and before the address by his Council. See Rule 88.

The accused makes the following address [*or, if the address is in writing*, hands in a written address, which is read (orally translated) marked _____, signed by the president (judge-advocate or superintending officer) and attached to the proceedings].

The prosecutor makes the following reply [*or, if the reply is in writing*, hands in a written reply, which is read (orally translated) marked signed by the president (judge-advocate or superintending officer) and attached to the proceedings],

or,

The prosecutor declines to make a reply.

Third Appendix — (continued).

[INSTRUCTION,—Where the reply of the prosecutor is not in writing the court should record so much as appears to them material and so much as the prosecutor requires to be recorded.

If the address of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person, and as nearly as possible in his own words.

If the address is not in writing and not delivered by the accused himself, the material portions should be recorded.

In either case, any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken whether request is made or not to record every point brought forward in the defence or in mitigation of punishment.]

VARIATION.

The Court, at the request of the accused, adjourn until to enable the accused to prepare his address.

The Court, at the request of the prosecutor, adjourn until to enable the prosecutor to prepare his reply.

(8) The Judge-advocate hands in a written summing up, which is read, (orally translated) marked, signed by the president, and attached to the proceedings.

VARIATIONS.

The Judge-advocate and the Court think a summing up unnecessary.

or

The Court, at the request of the Judge-advocate, adjourn until—to enable him to prepare his summing up.

FINDING.

Finding:
Not guilty.

(9) The court is closed for the consideration of the finding.

Third Appendix--(continued).

The Court find that the accused (No. _____
 Rank _____ Name _____ Unit _____)
 is not guilty of the _____ charge
 (and honourably acquit him of the same), but is guilty
 of the _____

or,

is guilty of the charge (all the charges);

Guilty]

or,

is guilty of the _____ charge, and guilty of the
 charge with the exception of the words (or with
 exception that)

or,

is not guilty of desertion, but is guilty of absence without
 leave from the _____ to the _____, being
 a period of _____ days;

[INSTRUCTION—Any special finding allowed by section 86 of the
 Jammu and Kashmir Army Regulation may be expressed in this form;

or

find that the accused did (Here set out such particulars
 in any charge as the Court find to be proved), but the ^{Special}
 Court doubt whether such facts constitute in law the ^{finding.}
 offence stated in the charge, or in the
 charge, or in the _____ charge, and therefore they find
 him guilty of the offence in such one of those charges as
 the facts in law constitute:

or,

adjourn for the purpose of consulting the convening (or
 as the case may be, confirming) officer;

On re-assembly on the _____ day of
 , and on reading the opinion of _____

Third Appendix— (continued).

which is marked _____ and annexed to the proceedings, find that the accused etc.

PROCEEDINGS ON ACQUITTAL OF ALL THE CHARGES.

Acquittal. (10) The Court find that the accused (No. _____
Rank _____ *Name* _____ *Unit* _____)
 is not guilty of the charge (or all the charges):

or,

is not guilty of the charge (or all the charges) and honourably acquit him of the same.

Signed at _____, this day _____ of _____

Signature

Signature

President.

Judge-advocate
 (or Superintending Officer).

Insanity. The Court find that the accused (No. _____
Rank _____ *Name* _____ *Unit* _____)
 is of unsound mind and consequently incapable of making his defence,

or,

Committed the act (acts) alleged as constituting the offence (offences specified in the charge (charges) but was by reason of unsoundness of mind incapable of knowing the nature of that act (those acts) (or but was by reason of unsoundness of mind incapable of knowing that, that act was wrong. (those acts were wrong) or, contrary to law).

Third Appendix—(continued).

Signed at , this day of

(*Signature*).

(*Signature*).

Judge-advocate.
(or Superintending officer).

President

Confirmed

At this day of

(*Signature of Confirming Authority.*)

PROCEEDINGS ON CONVICTION.

Before sentence.

(11) The Court being re-opened the accused is again brought before it, is duly sworn (or affirmed).

Question.—What record have you to produce in ^{Evidence} proof of former convictions against accused and of his ^{of character} character? _{etc.}

Answer by witness.—I produce a statement certified under the hand of the officer having custody of the regimental (*or other official*) records.

The statement is read, (orally translated) marked, signed by the president (judge-advocate or superintending officer), and attached to the proceedings.

Q. Is the accused the person named in the statement you have heard read?

A.

Q. Have you compared the contents of the above statement with the regimental (*or other official*) records?

A.

Q.—Are they true extracts from the Regimental (*or other official*) records and is the statement of entries in

Third Appendix—(continued).

the defaulter sheet a fair and true summary of those entries?

A.

Cross-examined by the Accused.

Re-examined.

or,

The accused declines to cross examine this witness.

[INSTRUCTION.—Any further question will be put and any evidence produced which the Court require as to any point respecting the character and service of the accused on which the Court desire to have information for the purpose of their sentence.

At the request of the accused, or by the direction of the Court, the regimental or other official books, or a certified copy of the material entries therein must be produced for the purpose of comparison with the statement.

The accused is entitled to call the attention of the Court to any entries in the regimental or other official books, or in the certified copy above mentioned, and to show that they are inconsistent with the statement.

When all the evidence on the above matters has been given the accused may address the Court thereon].

Question to accused.

Do you wish to address the Court?

Answer.

The Court is closed for the consideration of the sentence.

Third Appendix—(continued).

SENTENCE.

The Court sentence the accused (*No* _____ *Sentence.*
Rank _____ *Name* _____ *Unit*).

(*a*) to suffer death by being hanged by the neck until he be dead (*or* to suffer death by being shot to death). *Death.*

(*b*) to suffer imprisonment for life.

(*c*) to suffer rigorous (simple) imprisonment for years (months *or* days) (of which shall be in solitary confinement). *Imprisonment for life
Rigorous
(Simple imprisonment
solitary confinement).*

(*d*) to be dismissed from the service. *Dismissal,*

(*e*) to be suspended from rank, pay and allowances for a period of *Suspension.*

(*f*) to be reduced to a lower grade (*or* class) of warrant officer, that is to say, to *Reduction.*
or,

to be reduced to the rank of (*or* to the ranks).

(*g*) to take rank and precedence as if his appointment to the rank (grade *or* class) of bore date *Forfeiture
of seniority.*

(*h*) to forfeit past service for the purpose of ; *Forfeitures.*
or to forfeit good conduct (service) badges with the pay attached thereto : *or*

to forfeit the (*state medal, clasp and decoration, or any of them, which is to be forfeited*) with any annuity *or* gratuity attached thereto : *or*

to forfeit all arrears of pay and allowances and other public money due to him at the time of his dismissal : *or*

Third Appendix—(continued).

to forfeit pay and allowances for a period
of ; or

Stoppages.

to be put under stoppages of pay and
allowances until he has made good the
value of the following articles, *viz.*
(state the articles and the value of each)
or until he shall have made good the sum
of in respect of
(state the circumstances in respect of
which the same is awarded).

Field
punishment.

(i) to suffer field punishment No. for a
period of

Reprimand
or severe re-
primand.

(j) to be reprimanded (or severely reprimanded).

RECOMMENDATION TO MERCY.

The Court recommend the accused to mercy on the
ground that

SIGNATURE.

Signed at , this day of 19.

(Signature).

(Signature).

Judge-Advocate,
(or Superintending Officer),

President.

REVISION.

Revision.

(12) At , on the day of
at o'clock, the Court re-
assemble by order of , for the purpose
of re-considering their

Present, the same members as on the

VARIATION.

(INSTRUCTION.—If a member is absent and the absence will reduce
the Court below the required minimum, and it appears to the members present

Third Appendix—(continued).

that such absent member cannot attend within a reasonable time, the president, or, in his absence, the senior member present shall thereupon report the case to the convening officer.)

A b s e n t
member.

(*Rank, name, unit*) being absent.

(*The absence is accounted for*).

A medical certificate (or letter, or *as the case may be*) is produced, read, marked and attached to the proceedings.

There being present (not less than the required minimum) members the Court proceeds.

The letter (order or memorandum) directing the re-assembly of the Court for the revision, and giving the reasons of the confirming authority for requiring a revision of the finding (finding and sentence) (or sentence) is read, marked, signed by the president (judge-advocate or superintending officer) and attached to the proceedings.

[INSTRUCTION.—If the confirming authority so orders, additional evidence may be taken on revision such evidence will be taken as in paragraph (5) and (6).]

The Court having attentively considered the observations of the confirming authority, and the whole of the proceedings; Revised finding.

(a) do now revoke their finding and sentence, and find and sentence the accused to

or,

(b) do now revoke their sentence, and now Sentence sentence the accused, etc, etc.

or,

(c) do now respectfully adhere to their sentence.

Third Appendix—(continued).

(or finding and sentence).

Signed at , this day of 19 .

Signature

Signature.

Judge-Advocate.
(or Superintending Officer).

President.

CONFIRMATION.

Confirma-
tion.

(13) Confirmed,

or,

Confirmed. I direct that the sentence of rigorous imprisonment shall be carried out by confinement in military custody,

or,

I vary the sentence so that it shall be as follows
, and confirm the finding and the sentence as
so varied,

or,

I confirm the finding and sentence of the Court, but
mitigate, (remit, or, commute),

or,

(Where it is necessary to confirm the special finding on several alternative charges.)

I confirm the finding on charges, and I confirm the special finding relating to the and charges, and declare that that finding amounts to a finding of guilty on the charge, and of not guilty on the and charges.

I confirm the sentence but mitigate (remit, or commute):

Third Appendix—(continued).

or,

(Where the confirming officer desires partly to reserve his confirmation).

I confirm the finding of the Court on the
and charges and reserve for confirmation by
superior authority the finding on the and
charges, and the sentence:

or,

I confirm the findings of the Court, but reserve the
sentence for confirmation by superior authority:

or,

I confirm the findings of the Court, and the sentence
of the Court as to and reserve the sentence
so far as it for confirmation by superior
authority;

or,

(Where the finding is not confirmed).

Not confirmed (the reasons for non-confirmation
may be stated.)

Signed at , this day
of 19 .

Signature of confirming Authority).

[INSTRUCTION.—Any remarks of the confirming authority should be
separate from and form no part of the proceedings].

[Where the declaration respecting a special finding on alternative charges
is added subsequently to the confirmation (Rule 60.)]

I declare that the special finding relating to the
and charges amounts to a

Third Appendix—(continued).

finding of guilty on the
guilty on the

and

charge, and of not
charges.

Signed at _____, this _____ day
of _____ 19 ____.

(Signature of Authority).

Form of Proceedings of a Summary Court martial.

Proceedings of a Summary Court-martial held
at _____ on the _____ day of _____ 19 ____
by _____

Commanding the _____ for the trial of all
such accused persons as he may duly have brought before
him.

PRESENT.

Commanding the

Attending the trial.

Interpreter.

(1) The Officers assemble at the _____
and the trial commences at _____ o'clock _____ M.
The accused No. _____
of the _____
is brought ("called" if a non-commisioned officer) into
Court. _____, the Court is duly sworn
(affirmed).

_____ is duly sworn (affirmed) as Interpreter.

All witnesses are directed to withdraw from the
Court.

Third Appendix—(continued).

The Charge-sheet is read, (translated) and explained
to the accused, marked
the Court and attached to the proceedings. , signed by

[INSTRUCTION.—The sanction of superior authority for trial by summary Court-martial should be entered, with the date and signature of the staff officer, at the foot of the charge-sheet when such sanction is necessary].

ARRAIGNMENT.

By the Court-How say you are you guilty, Question to accused.
or not guilty of the charge preferred against
you?

A.

Are you guilty or not guilty of the charge? Question.

[INSTRUCTION.—If the accused pleads "Guilty" adopt (2) and omit (3), (4) and (5). If he pleads "Not Guilty" adopt (3) and (4) or (5) and omit (2), if he pleads "Guilty" to some charge or charges and "Not Guilty" to others (not alternative) adopt (3), (4) or (5) and (2).]

PROCEEDINGS ON PLEA OF GUILTY.

(2) The accused (*number* _____ *rank* _____
name _____ *unit* _____) is found guilty
of the charge (all the charges)
or,
is found guilty of the charge, and is
found not guilty of the charge.

[INSTRUCTION.—If the trial proceeds upon any charge, to which there is a plea of not guilty, the Court will not proceed upon the record of the plea of guilty until after the finding on those other charges; and in that case the charge on which the record, is guilty must be read to the accused again.)

The summary of evidence is read (translated),
explained, marked signed by the Court and
attached to the proceedings.

Third Appendix—(continued).

(INSTRUCTION—If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence and to enable the reviewing officer to know all the circumstances connected with the case will be taken as in paragraph (3). o address will be allowed].

VARIATION.

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "guilty" alters the record and enters a plea of "not guilty".

[INSTRUCTION—The Court will then proceed in respect of this charge as in paragraph (3).]

Question to
accused.

Do you wish to make any statement in reference to the charge or in mitigation of punishment?

A. No; or

The accused says

Question
to accused.

Do you wish to call any witnesses as to character?

A. Yes. (No).

INSTRUCTION—(1) The examination of witnesses as to character will proceed as in paragraph (3).

(2) Evidence as to character and particulars of service will be taken as in paragraph (6).]

Prosecu-
tion 1st
witness.

PROCEEDINGS ON PLEA OF NOT GUILTY.

Prosecution.

Religion to
be recorded,
Hindu,
(Muselman,
Sikh) Sikh
should be
sworn.

(3)

is examined by the court.

being sworn (affirmed)

Q.

ARMY REGULATIONS
Third Appendix—(continued)

_____ A.
Cross-examined by the accused.

_____ Re-examined by the Court.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) have been complied with should be recorded.]

The witness withdraws.

VARIATIONS.

The accused declines to cross-examine this witness.

[INSTRUCTION.—In every case where the accused does not cross-examine a witness for the prosecution this statement is to be made, in order that it may appear on the face of the proceedings that he has had the opportunity given him of cross-examination.]

The Court, at the request of the accused, allow the cross-examination of the witness to be postponed.

The prosecution is closed.

Do you intend to call any witnesses in your defence? Quest
to accus

Yes

A.

DEFENCE.

The accused is called upon for his defence and Defe
states—

_____ being duly sworn Def
1st v
(affirmed) is examined by the accused.

Third Appendix— (continued).

Cross-examined by the Court.

Re-examined by the accused.

His evidence is read to the witness.

[INSTRUCTION.—The fact that Rule 127 (B), (C), (D) been
 complied with should be recorded].

The Defence is closed.

REPLY.

Reply 1st
 witness.

_____, being duly sworn (affirmed)
 is examined by the Court.

Q. _____

A. _____

VERDICT OF THE COURT.

Finding
 not guilty.

(4) I am of opinion on the evidence before me that
 the accused No. _____, of
 the _____, is not guilty of the
 charge (or all the charges) and honourably acquit him of
 the same.

The verdict is read out and the accused released.
 He is to return to his duty.

Signed at _____ this _____ day of
 19 .

Commanding the
 holding the trial.

The trial closes at _____ o'clock M.

Guilty.

(5) I am of opinion on the evidence before me
 that the accused No. _____ of the _____

is not guilty of the charge (and honourably acquit him of the same) but is guilty of the

or,

is guilty of the charge (all the charges).

PROCEEDINGS BEFORE SENTENCE.

(6) The following Minutes by the Court are read and explained.

[INSTRUCTION.—If the Court does not record the accused person's convictions and character of its own knowledge, evidence as to these matters will be taken as in paragraph II of the Form of Proceedings for a General or District Court-martial.]

It is within my own knowledge, from the records of the _____ that the accused has _____ been previously convicted by Court-martial or Criminal Court (see Certificate annexed).

That the following is a fair and true summary of the entries in his defaulter sheet exclusive of convictions by a Court-martial or a Criminal Court.

within last
12 months.

since
Enrolment.

For

times

times

For

times

times

That he is at present undergoing

sentence.

That, irrespectively of this trial, his general character has been _____

That his age is
his service is
and his rank is
that he has been in arrest (confinement) for

days.

That he is in possession of the following military decorations and rewards : —

Third Appendix—(continued).

(Any recognised acts of gallantry or distinguished conduct should also be entered here.)

SENTENCE BY THE COURT.

Sentence. Taking all these matters into consideration, I now sentence the accused No. of the

Rigorous
(simple)
imprison-
ment ———, and solitary
confinement.

(a) To suffer rigorous (simple) imprisonment for [of which shall be in solitary confinement] [and I direct that the sentence of rigorous imprisonment shall be carried out by confinement in military custody.)

Dismissal.

(b) to be dismissed from the service.

Reduction.

(c) to be reduced to the rank of (or to the ranks).

Forfeiture
of seniority.

(d) to take rank and precedence as if his appointment to the rank of bore date.

Forfeitures.

(e) to forfeit past service for the purpose of ; or

to forfeit good conduct (service) badges, with the pay attached thereto; or

to forfeit the (*state medal, clasp and decoration, or any of them which is to be forfeited*) with any annuity or gratuity attached thereto; or

to forfeit all arrears of pay and allowances and other public money due to him at the time of his dismissal; or

to forfeit pay and allowances for a period of ; or

Stoppages.

(f) to be put under stoppages of pay and allowances until he has made good the value of

Third Appendix — (continued).

the following articles, viz.

(State the articles and the value of each).
(or until he shall have made good the sum
of in respect of
(state the circumstances in respect of which
the same is awarded).]

(g) to suffer field punishment No. for a ^{Field} punishment
period of

Signed at , this day
of , 19 .

Commanding the
holding the trial.

The trial closes at
o'clock M.

REMARKS BY REVIEWING OFFICER.

(Jammu and Kashmir Army Regulation Section 102)

Form of Summons.

Form of Summons to a witness summoned under section
84 of the Jammu and Kashmir Army Regulation.

To

Whereas a Court-martial has
been ordered to assemble at on the day of
19 , for the trial of , of the
unit, I do hereby summon and require you A. B.
to attend, as a witness, the sitting of the said Court
at on the day of
at o'clock in the forenoon
(and to bring with you the documents hereinafter men-
tioned, namely), and so to attend from day
to day until you shall be duly discharged, whereof you
shall fail at your peril.

Third Appendix—(continued).

Given under my hand at _____ on the
day of _____ 19 .

(Signature.)

Convening Officer (or Judge-Advocate or President of the Court or Commanding Officer of the Accused).

Form for Assembly and Proceedings of a Summary General Court-Martial.

A.—ORDER CONVENING THE COURT.

At (place) _____ this _____ day of _____ 19

**(1) Beginning of Form in cases falling under clause (a) of section 62 of the Jammu and Kashmir Army Regulation.*

Whereas it appears to me
an officer empowered in this behalf by an order of the
His Highness the Maharaja Bahadur _____ that the person
Commander-in-Chief persons
named in the annexed schedule, and being subject to the
Military law, has committed the offence in the said
have offences
schedule mentioned;

**(2) Beginning of Form in cases falling under clause (b) of section 62 of the Jammu and Kashmir Army Regulation.*

Whereas it appears to me the
an
officer commanding the forces in the field
empowered in this behalf by the Officer Commanding the
forces in the field on active service that the person named
persons
in the annexed schedule, and being subject to the Military

* Only one of these will be used, the two which are inapplicable being struck out.

Third Appendix—(continued).

law, ^{has}_{have} committed the ^{offence}_{offences} in the said schedule mentioned;

* (3) *Beginning of Form in cases falling under clause (c) of section 62 of the Jammu and Kashmir Army Regulation.*

Whereas it appears to me ^{an}
officer now in command of ^{, being a}
detached portion of His Highness' Troops upon active
service that the ^{person}_{persons} named in the annexed schedule,
and being subject to the Military law, ^{has}_{have} committed
the ^{offence}_{offences} in the said schedule mentioned; and where-
as I am of opinion that it is not practicable with due
regard to discipline and the exigencies of the service that
the said ^{offence}_{offences} should be tried by an ordinary general
court-martial;

(4) *End of Form applicable to all cases.*

I hereby convene a summary general Court-Martial
to try the said ^{person}_{persons} and to consist of

Ranks, names and corps of members.

(Here enter the special order (if any) under Rule 146 and any order under section 98 (1) (c) of the Jammu and Kashmir Army Regulation.

Signature of convening officer.

* Only one of these will be used, the two which are inapplicable being struck out.

Third Appendix—(continued).

SCHEDULE.

Date 19 .

Name of alleged offender.*	Offence charged.	Plea.	Finding, and if convicted, sentence.†	How dealt with by confirming officer.‡
1	2	3	4	5
Ram Bux (Bannia)	Theft of Government property.	Guilty.	Guilty, Rigorous imprisonment for .	Confirmed. I remit A B
262 Sepoy Jhanda Singh, Regiment.	Breaking into house for plunder.	Not Guilty.	Guilty, Field punishment No. 1, for two months.	
564 Sowar Hussain Khan Regiment.	Sleeping on post in time of war.	Not Guilty.	Guilty-Death by being shot to death. Recommended to mercy.	Confirmed, but commuted to field punishment No. 1 for three months. A B
Person accompanying force (name unknown) white jacket and trousers, scar on right cheek.	Impeding provost-marshal.	Not Guilty.	Not Guilty.	Confirmed. A B
Sepoy in uniform of unit (name unknown).	Civil offence Rape.	Not Guilty.	Guilty. Imprisonment for life.	Confirmed. A B

A Convening Officer. B President. C D E F Superintendent Officer (if any).
Superintendent Officer as will identify him.

* If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.
† Recommendation to mercy to be inserted in this column
‡ If confirmation is not required this column should be left blank. See Jammu and Kashmir Army Regulation, Section 98.

FOURTH APPENDIX.

WARRANTS UNDER SECTIONS 107 AND 109 OF
THE JAMMU AND KASHMIR ARMY
REGULATION.

FORM A.

Warrant of commitment for use when a prisoner is sentenced to imprisonment for life (Jammu and Kashmir Army Regulation Section 107).

*To the Superintendent
of the (a)*

Prison.

Whereas at a (b) Court-martial held at
on the day of 19 (Number,
Rank, Name) of the Regiment
was convicted of (the offence to be briefly stated here as
"desertion" corresponding with the enemy", "disobedience
of lawful command" or as the case may be).

And whereas the said (b) Court-martial on the
day of , 19 passed the following
sentence upon the said (Name); that is to say :—

(Sentence to be entered in full, but without signature.)

And whereas the said sentence has been duly confirmed by (c) as required by law. (d)

This is to require and authorise you to receive the said (Name) into your custody in the said prison as by law is required, together with this warrant, until he shall be delivered over by you with the said warrant to the proper authority and custody for the purpose of undergoing the aforesaid sentence of imprisonment for life. The aforesaid sentence has effect from the (e)

Given under my hand at
day of , 19 .

this the
Signature (f)

- (a) Enter name of civil prison.
(b) General, or summary General.
(c) Name and description of confirming authority.
(d) Add if necessary "with a remission of
(e) Enter date on which the original sentence was signed.
(f) Signature of Commanding Officer of prisoner or other prescribed
officer—See Rule 152.

Fourth Appendix—(continued).

FORM B

Warrant of commitment for use when a prisnor is sentenced to rigorous imprisonment which is to be undergone in a civil prison (Jammu and Kashmir Army Regulation Section 107).

To the Superintendent of the (a) Prison

Whereas at a (b) Court-martial held at on the day of 19 (Number, Rank, Name) of the unit was duly convicted of (the offence to be briefly stated here, as "deserter" "theft" receiving stolen goods" "fraud" "disobedience of lawful command" or as the case may be).

And whereas the said (b) Court-martial, on the day of 19 passed the following sentence upon the said (Name); that is to say :—

(Sentence to be entered in full, but without signature).

And whereas the said sentence (c) has been duly confirmed by (d) as required by law. (e) is by law valid without confirmation.

This is to require and authorise you to receive the said (Name) into your custody together with this warrant, and there carry the aforesaid sentence of rigorous imprisonment into execution according to law. The sentence has effect from the (f).

Given under my hand at this the day of 19

Signature. (g)

(a) Enter name of Civil Prison.

(b) General, District, Summary General or Summary.

(c) Strike out inapplicable words.

(d) Name and description of confirming authority.

(e) Add if necessary "with a remission of

(f) Enter date on which the original sentence was signed.

(g) Signature of Commanding Officer of prisoner or other officer—

See Rule 152.

Fourth Appendix—(continued).

FORM C.

Warrant for use when a prisoner is pardoned or his trial set aside, or when the whole sentence, or the unexpired portion thereof, is remitted (Jammu and Kashmir Army Regulation, Section 109).

To the Superintendent

of the (a)

Prison.

Whereas (*Number, Rank, Name,*) (late) of
the unit is confined in the (a)
prison under a warrant issued by (b)
in pursuance of a sentence of (c) passed
upon him by a (d) Court-martial held at
on ; and whereas
(e) has in the exercise of the powers
conferred upon him by the Jammu and Kashmir Army
Regulation passed the following order regarding the
aforesaid sentence, that is to say :—

(f) _____

This is to require and authorise you to forthwith discharge the said (*Name*) from your custody unless he is liable to be detained for some other cause ; and for your so discharging him this shall be your sufficient warrant.

Given under my hand at
day of , 19 .

this the

Signature (g)

- (a) Enter name of civil prison.
(b) Enter name or designation of officer who signed original warrant.
(c) Enter original sentence (if this was reduced by the Commanding Officer or other superior authority the sentence should be entered thus :—
“2 years’ rigorous imprisonment reduced by Confirming Officer to 1 year”.)
(d) General, District, Summary General or Summary.
(e) Name and designation of authority pardoning prisoner, mitigating sentence or setting aside trial.
(f) Order to be set out in full.
(g) Signature of prescribed officer—See Rule 153.

Fourth Appendix—(continued).

FORM E.

Warrant for use when a sentence of rigorous imprisonment is reduced by superior authority or when one of imprisonment for life is reduced to one of rigorous imprisonment (Jammu and Kashmir Army Regulation Section 109).

To the Superintendent
of the (a)

prison.

Whereas (Number, Rank, Name) (late) of the unit is confined in the (a) prison under a warrant issued by (b) in pursuance of a sentence of (c) passed upon him by a (d)

Court-martial held at on , and whereas (e) has, in the exercise of the powers conferred upon him by the Jammu and Kashmir Army Regulation, passed the following order regarding the aforesaid sentence; that is to say:—

(f) _____

This is to require and authorise you to keep the said (Name) in your custody together with this warrant, and there to carry into execution the punishment of Rigorous Imprisonment under the said order according to law. And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof this warrant is issued. The period of such rigorous imprisonment will reckon from the (g)

Given under my hand at
day of 19 .

this the

Signature (h).

- (a) Enter name of Civil prison.
- (b) Enter name of designation of officer who signed original warrant.
- (c) Enter original sentence (if this was reduced by the Confirming Officer or other superior authority the sentence should be entered thus:—
(" 2 years' rigorous imprisonment reduced by Confirming Officer to 1 year")
- (d) General, District, Summary General or Summary.
- (e) Name and designation of authority varying the sentence.
- (f) Order to be set out in full.
- (g) Enter date on which original sentence was signed.
- (h) Signature of prescribed officer—See Rule 153.

Fourth Appendix.

FORM F.

Warrant for use when prisoner is to be delivered into military custody (Jammu and Kashmir Army Regulation Section 109).

To the Superintendent
of the (a) prison.

Whereas (Number, Rank, Name) (late) of the
unit is confined in the (a) prison
under a warrant issued by (b) in pursuance
of a sentence of (c) passed upon him by a
(d) ; Court-martial held at on
; and whereas (e) has in the exercise
of the powers conferred upon him by the Jammu and
Kashmir Army Regulation passed the following order
regarding the aforesaid sentence, that is to say:—

(f) _____

This is to require and authorise you to forthwith deliver
the said (Name) to the officer or non-commissioned
officer bringing this warrant.

Given under my hand at this the
day of 19 .

Signature (g).

- (a) Enter name of civil prison.
(b) Enter name or designation of officer who signed original warrant.
(c) Enter original sentence (if this was reduced by the Confirming Officer
or other superior authority the sentence should be entered thus:—
“2 years’ rigorous imprisonment reduced by Confirming Officer to 1
year”).
(d) General, District, Summary General or Summary.
(e) Name and designation of authority issuing order.
(f) Order to be set out in full.
(g) Signature of prescribed officer—See Rule 153.

APPENDIX V.

MINOR PUNISHMENTS UNDER SECTION
20 OF THE JAMMU AND KASHMIR ARMY
REGULATION.

The punishments which may be summarily awarded to persons subject to the Jammu and Kashmir Army Regulations and the officers by whom these punishments may be awarded are set forth in the following table.

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishments.	Relevant instructions and reference.
I. FORFEITURE OF SENIORITY OR OF SERVICE FOR THE PURPOSE OF PROMOTION AND REPRIMAND.—			
(a) Forfeiture of seniority, or, in the case of an officer whose promotion depends upon length of service, of service for the purpose of promotion, for a period not exceeding 12 months.	An officer empowered to convene a General Court-martial.	Any Indian Officer.	When it is proposed to award a punishment of forfeiture of seniority or of service for the purpose of promotion, the Indian Officer or Warrant Officer shall be asked whether he desires to be dealt with summarily or be tried by court-martial and, if he elects to be tried by Court-martial, he shall not be punished summarily under this paragraph.
(b) Reprimand or severe reprimand.			
(a) Forfeiture of seniority, or, in the case of a Warrant Officer whose promotion depends upon length of service, of service for the purpose of promotion, for a period not exceeding 12 months.	An Officer empowered to confirm the finding and sentence of a Court-martial held for the trial of a Warrant Officer.	Any Warrant Officer.	Reprimand or severe reprimand may be awarded either alone or in addition to forfeiture of seniority or of service for the purpose of promotion.
(b) Reprimand or severe reprimand.			
II. IMPRISONMENT.—			
(a) Imprisonment (rigorous or simple, and with or without solitary confinement) not exceeding 28 days.	Officer Commanding a Brigade Area.	All persons subject to Jammu and Kashmir Army Regulation, other than Indian Officers, Warrant Officers and Non-Commissioned Officers.	1. If rigorous imprisonment be awarded any portion of the imprisonment not exceeding 7 days may be with solitary confinement.
(b) Imprisonment (rigorous or simple, and with or without solitary confinement) not exceeding 14 days.	Commanding officer not below rank of a field officer.	Do.	
(c) Imprisonment (rigorous or simple, and with or without solitary confinement) not exceeding 7 days.	Commanding Officer below rank of field Officer and officers Commanding a detachment if authorised by Commanding Officers.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-Commissioned Officers.	2. Imprisonment shall not be awarded in respect of offence committed while the offender was of or above rank of Non-Commissioned Officer. 3. An acting lance Non-Commissioned Officer

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and reference.
<p>III. CONFINEMENT TO THE LINES.</p> <p>(a) For any period not exceeding 28 days.</p>	<p>Commanding Officer.</p>	<p>All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-Commissioned Officers.</p>	<p>sioned Officer is legally a Non-Commissioned Officer and can only be awarded punishments awarded to Non-Commissioned Officers for an offence committed when a Non-Commissioned Officer.</p> <p>4. An officer may remit punishment awarded by an Officer under his command but he cannot increase it.</p> <p>5. Imprisonment shall be reserved for serious and repeated offences.</p> <p>6. Imprisonment commences from the date of award and ends at sunset of the day the sentence expires.</p> <p>7. An officer commanding a detachment may not award solitary confinement.</p> <p>8. A sentence of simple imprisonment carries with it punishment drill for 2 hours only.</p> <p>9. Commanding Officer under rank of Field Officer when specially authorised by name by Commander-in-Chief may award upto 28 days imprisonment.</p> <p>1. Any award of more than 14 days carries with it punishment drill for 14 days otherwise for each day of the award.</p>

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant Indian laws and regulations.
(b) For any period not exceeding 10 days.	Company Commander or Adjutant if authorised by Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers Warrant Officers and Non Commissioned Officers.	2. Punishment for insubordination consists of marching in quick time and not of instruction drill. It will be carried out in marching order, and will not exceed one hour's time or two hours the day.
(c) For any period not exceeding 7 days.	Other State Officer or an Indian Officer commanding a detachment if authorised by Commanding Officer.	Do.	3. Detachments will attend parades and take all duties as regular ones. They will be required to answer their arms at under drill and may be employed on working parties.
(d) For any period not exceeding 3 days.	Other Indian Officers if authorised by Commanding Officer.	Do.	
IV. EXTRA DUTIES.—			
(a) Extra guard or picquets.	(i) Commanding Officer. (ii) Company Commander, Adjutant or an Indian Officer commanding a detachment up to a limit of 3 such duties for any one offence if authorised by the Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation, other than Indian Officers.	For minor offences on these duties.
(b) Extra duties or working parties.	Do.	Non-Commissioned Officers.	According to status and occupation.
V. DEPRIVATION OF ACTING RANK APPOINTMENT OR OF SIGNAL ARTIFICER, CORPS OR WORKING PAY.			
(a) Deprivation of acting and lance rank or of a position in the nature of an appointment.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers.	

ARMY REGULATION RULES.

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and references.
(b) Deprivation of signal, artificer or corps, pay for any day on which an offence (including idleness or negligence) is committed, or the offender may be disgraced temporarily for a period not exceeding 28 days.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers.	
(c) Deprivation of working pay for any day on which an offence (including idleness or negligence) connected with the work for which the pay is drawn is committed.	Commanding Officer or Indian Officer Commanding a Detachment if authorised by his Commanding Officer.	Do.	
I. FORFEITURE OF GOOD SERVICE AND GOOD CONDUCT PAY :—		Do.	May be awarded in addition to any other punishment.
(a) Forfeiture of one rate good service or good conduct pay.	Commanding Officer.	Do.	May be awarded in addition to any other punishment.
VII. REPRIMAND :—	Do.	Warrant officers and Non-Commissioned Officers including acting Non-Commissioned Officers.	Non-Commissioned Officers or privates may be admonished but the latter will not be reprimanded.
(a) Reprimand or severe reprimand.	Do.	Warrant officers and Non-Commissioned Officers including acting Non-Commissioned Officers.	Non-Commissioned Officers or privates may be admonished but the latter will not be reprimanded.
VIII. FINES —	Do.	Non-Commissioned Officers except Warrant Officers.	May be awarded either alone or in conjunction with any other punishment except imprisonment.
(a) Fine to the extent of 7 days' pay for a month.	Do.	Non-Commissioned Officers except Warrant Officers.	May be awarded either alone or in conjunction with any other punishment except imprisonment.
(b) Fine to the extent of 4 day's pay for a month.	Departmental Officer i. e. Senior Assistant Surgeon independent charge if not empowered to award imprisonment.	Non-Combatants.	.....

Fifth Appendix—(continued).

Nature of the punishment.	Authority empowered to award the punishment.	Persons liable to the punishment.	Relevant instructions and references.
IX. PENAL DEDUCTION—			
(a) Any sum required to make good such compensation for any expenses caused by him, or for any loss or damage or destruction done by him to any arms, ammunition equipment clothing, instruments, regimental necessaries, or Military decorations or to any buildings or property.	Commanding Officer.	Any person subject to Jammu and Kashmir Army Regulation.	Jammu and Kashmir Army Regulation Section 50 (f).
X. FIELD PUNISHMENTS:—			
(a) No. 1 or No. 2 upto 28 days.	Commanding Officer.	All persons subject to Jammu and Kashmir Army Regulation other than Indian Officers, Warrant Officers and Non-commissioned Officers.	On active service only. For details see Rule 155 Jammu and Kashmir Army Regulation.
(b) No. 1 or No. 2 upto 7 days.	Indian Officers, Commanding detachment.	Do.	Do.

NOTE.—Punishments of imprisonments, confinement to the lines and extra guard or picquets may be awarded separately or conjointly but the carrying out of imprisonment precedes confinement to the lines, and no award or awards including imprisonment and confinement to the lines shall exceed 28 consecutive days.

Filed punishments can similarly be awarded separately or conjointly

*Fifth Appendix—(continued).*THE METHOD OF ENTERING AWARDS ON
CONDUCT SHEETS.

SHEET ROLL ENTRIES.

The following entries will be made in red ink in the conduct sheet contained in the sheet roll which will be maintained for every person subject to the Jammu and Kashmir Army Regulation:—

- (i) Every award of forfeiture of seniority of rank (Indian Officers and Warrant Officers only);
- (ii) Every conviction by Court-Martial;
- (iii) Every conviction by a Civil Court, except when fine was the only punishment and the Commanding Officer does not consider that a red ink entry should be made;
- (iv) Every case of reduction of a Non-Commissioned Officer to a lower grade or to the ranks; for an offence but not for inefficiency;
- (v) Every case of deprivation of an appointment, or of lance or acting rank, for an offence but not for inefficiency;
- (vi) Every award of severe reprimand, (Indian Officers, Warrant Officers and Non-Commissioned Officers).
- (vii) Every award of imprisonment;
- (viii) Every award of field punishment (on active service only);
- (ix) Every award of confinement to the lines exceeding 14 days;
- (x) Every award of forfeiture of good service or good conduct pay.

Fifth Appendix—(concluded).

(*xi*) Every offence entailing forfeiture of pay and allowances except as in item (*xii*) below;

(*xii*) Every case involving forfeiture of pay and allowances for absence without leave exceeding two days classified as an offence by the Commanding Officer.

The following entries will be made in black ink in the conduct sheet :—

(*i*) Any punishment not included in the above;

(*ii*) A conviction of a Civil Court when fine was the only punishment and the Commanding Officer does not consider that a red ink entry should be made;

(*iii*) Every case involving forfeiture of pay and allowances for absence without leave not exceeding two days classified as an offence by the Commanding Officer.

NOTE.—The mode of recording entries is laid down in the King's regulation (Section 1634-1636).

APPENDIX VI.

Powers delegated to the Commander-in-Chief, the Army Minister, the Chief of the Military Staff, the General Staff Officer, the Officer Commanding a brigade and the Officer Commanding a unit under the Jammu and Kashmir Army Regulation and Rules.

APPENDIX " B "

POWERS OF THE COMMANDER-IN-CHIEF.

Section 13 ... To dismiss from the service any person subject to this Regulation other than a State Officer.

Section 19 ... To reduce to a lower grade or to the ranks any non-commissioned officer.

Section 20 ... To specify the minor punishments to which persons subject to this Regulation shall be liable without the intervention of a court-martial.

Section 23 ... To appoint provost-marshalls.

Section 102 ... To set aside the proceedings or reduce the sentence of a Summary Court-martial to any other sentence which the Court might have passed.

Section 103 ... To substitute a valid sentence for an invalid one.

Section 112 ... To pardon the person convicted by a Court-martial of any offence or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.

Rule 13 ... To authorize the discharge of State Officers.

Sixth Appendix—(continued).

(i) On transfer to the pension establishment otherwise than at his own request or having been found medically unfit for further service;

(ii) with gratuity, otherwise than at his own request;

(iii) his service being no longer required.

Rule 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of war.

Rule 163-A ... To make provision for dependents of prisoner of war whose pay and allowances have been forfeited.

Rule 164 ... To decide whether the proceedings should be instituted before a Criminal Court or a Court-martial.
Also see section 69.

Rule 164 ... To deliver over the offender in compliance with the requisition of a criminal court or to refer the question as to the court before which the proceedings are to be instituted for the determination of His Highness.
Also see section 70.

Warrant No. To convene and confirm the findings of the General and District Courts-martial held on persons subject to the Jammu and Kashmir Army Regulation other than State Officers.

POWERS OF THE CHIEF OF THE MILITARY STAFF.

Rule 13 ... To authorize the discharge of.—

(1) Indian Officers and Warrant Officers.

(i) On transfer to the pension establishment.

Sixth Appendix—(continued).

Rule 82 ... To allow council in certain General and District Courts-martial.

Rule 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of War.

Rule 163-A ... To make provision for dependants of prisoners of war whose pay and allowances have been forfeited.

POWERS OF THE ARMY MINISTER.

Section 13 .. To dismiss from the services any person subject to this Regulation other than State Officer.

Section 19 ... To reduce to a lower grade or to the ranks any Non-commissioned Officer.

Section 21 ... To impose a collective fine upon the officers, non-commissioned officers or men of a unit responsible for loss or theft of a weapon or part of a weapon.

Section 102 ... To set aside the proceedings or reduce the sentence of a summary Court-martial to any other sentence which the Court might have passed.

Section 103 ... To substitute a valid sentence for an invalid one.

Section 112 ... To pardon the person (in the case of a sentence which he could have confirmed or which did not require confirmation) convicted by a court-martial of any offence or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.

Rule 13 ... To authorize the discharge of Indian Officers and Warrant Officers.

Sixth Appendix—(continued).

- (a) At his own request with less than 24 years service.
- (b) On completion of 24 years' service, unless retained on the active list as a special case for a further specified period with the sanction of the Commander-in-Chief.
- (ii) On resignation of his Commission.
- (iii) Having been found medically unfit for further service.
- (2) Persons enrolled under the Regulation who have been attested.
 - (a) On completion of service (with or without pension or gratuity) persons of the rank of Havildar (or equivalent rank).
 - (b) On transfer to the pension establishment or with gratuity, otherwise than under item (xii), (xiii) or (xiv) of this Rule.
 - (c) On compassionate grounds before fulfilling the conditions of his enrolment.
 - (d) His services being no longer required.

POWERS OF THE GENERAL STAFF OFFICER.

Section 85 ... To issue a commission to take the evidence of a witness.

Sections 132 & 133 .. To preserve the proceedings of a Court-martial other than a Summary Court-martial and to grant a copy thereof upon payment.

POWERS OF THE OFFICER COMMANDING A BRIGADE.

Section 14 ... To dismiss from the service any person serving under his command

Sixth Appendix—(continued).

other than an officer or warrant officer.

Section 19 ... To reduce to a lower grade or to the ranks any Non-Commissioned Officer under his command.

„ 108 ... To direct execution of a sentence of imprisonment in special cases.

„ 126-B ... To make order for the disposal by destruction, confiscation, etc., of any property or document regarding which any offence appears to have been committed.

RULES.

Rule 13 ... To authorize the discharge of persons enrolled under the Regulation (A) who have been attested :—

(1) On termination of service (with or without pension or gratuity) at his own request ;

(2) On completion of service (with or without pension or gratuity) otherwise than at his own request as regards persons below the rank of Havildar (or equivalent rank) ;

(3) On termination of engagement ;

(4) Having reached age for discharge ;

(5) Having been found medically unfit ;

(6) Having re-entered the service after being dismissed or discharged without at the time of such re-entry stating the fact of his previous dismissal or discharge, or showing his certificate of dismissal or discharge ;

Sixth Appendix—(continued).

(7) Not being a good soldier.

(B) who are not attested on compassionate grounds before fulfilling the conditions of his enrolment.

Rule 156 ... To order assembly of a Court-of-inquiry to investigate the circumstances under which the loss or theft of a rifle, etc., occurred and call for opinion as to the circumstances of the loss or theft of a rifle, etc.

" 162-A ... To retain under section 49-A in the ranks a person convicted on active service.

POWERS OF THE COMMANDING OFFICER.

Section 12 ... To attest a person subject to this Regulation.

" 17 ... To furnish a discharge certificate to every enrolled person who is dismissed or discharged.

" 19 ... To order an acting non-commissioned officer to revert to his permanent grade as a non-commissioned officer or to the ranks, if, he has no permanent grade above the ranks.

" 22 ... To punish any follower subject to this Regulation for an offence, in breach of good order, on active service, in camp, on the march, etc.

" 23 ... To appoint provost marshalls on active service.

" 62 ... To convene a Summary General Court-martial on active service.

Sixth Appendix—(continued).

- Section 64 ... To hold a summary Court-martial.
- " 76 ... To award a sentence of imprisonment on a summary Court-martial.
- " 84 ... To summon witnesses or to order production of documents.
- " 98 ... To confirm the finding and sentence of a Summary General Court-martial on active service.
- " 99 ... To mitigate, remit or commute the sentence of a Summary General Court-martial at the time of confirming it.
- " 100 ... To revise the finding or the sentence of a Summary General Court martial on active service.
- " 107 ... To issue warrant for execution of a sentence of imprisonment.
- " 112 ... To pardon the person (on active service outside the State, in the case of a sentence which he could have confirmed or which did not require confirmation) convicted of any offence by a court-martial or remit the whole or any part of the punishment awarded or to mitigate the punishment awarded or to commute such punishment for any less punishment.
- " 114 to 116 To secure and dispose of the moveable property belonging to the deceased or deserter that is in the camp or quarters.
- " 122 ... To decide a question arising as to the proper military authority qualified to grant a certificate of leave of absence

Sixth Appendix—(continued).

taken for prosecuting or defending a suit or other proceeding in a court.

- Section 123 ... To give written information of the desertion to civil authorities for apprehension of a deserter.
- " 125 ... To apply to civil authorities for arrest of a person subject to this Regulation who is accused of any offence under this Regulation.
- " 126 ... To hold a court of inquiry on the absence of a person subject to this Regulation and to enter in the Court-martial Book of the corps or department a record of the declaration of such court. Also see Rule 159.

RULES.

- Rule 11 ... To issue discharge certificate to every Indian Officer or Warrant Officer who is discharged or dismissed.
- " 13 ... To authorize the discharge of followers and recruits.
- " 14 ... To report to the officer to whom application would be made to convene a general or district court-martial every case of a person being detained in custody beyond a period of 48 hours with reasons thereof.
- " 15 ... To investigate and dispose of the charge or adjourn for taking down summary of evidence or to apply to try the accused by Summary Court-martial.
- " 16 ... To remand the accused for trial by Court-martial or to apply for General or District Court-martial.

Sixth Appendix—(concluded).

- Rule 17 ... To forbear from increasing the punishment, once awarded for an offence.
- Rules 132 & 133... To preserve the proceedings of a summary court-martial and to grant copy thereof upon payment.
- Rule 152 ... To sign a warrant for the committal of a person sentenced by a court-martial to a civil prison.
- „ 162 ... To reduce on active service a non-commissioned officer to lower grade or to the ranks.
- „ 163 ... To remit the forfeiture of pay and allowances incurred by a person owing to his absence as a prisoner of war or of a person who has been absent without leave for a period not exceeding 5 days.
- „ 164-A ... To set aside the proceedings or reduce the sentence of a summary court-martial to any other sentence which the court might have passed.
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PART II

THE JAMMU AND KASHMIR ARMY (SUSPENSION OF SENTENCES) REGULATION.

REGULATION NO. XV OF 1989.

CONTENTS.

Sections.

1. Short title and constructions.
2. Definitions.
3. Suspension of sentences.
4. Calculation of period of sentence under suspension.
5. Power to set aside suspension or order remission.
6. Periodical review of suspended sentences.
7. Procedure on further sentence of offender whose sentence is suspended.
8. Saving of section 112, Jammu and Kashmir Army Regulation.
9. Provision as to dismissal.

REGULATION NO. XV OF 1989.

A Regulation to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Jammu and Kashmir Army Regulation 1989.

Whereas it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or imprisonment for life passed by Courts-martial on persons subject to the Jammu and Kashmir Army Regulation, 1989; it is hereby enacted as follows:—

1. This Regulation may be called the Jammu and Kashmir Army (Suspension of Sentences) Regulation XV, 1989, and shall be construed as one with the principal Regulation. Short title and Construction.

2. In this Regulation, unless there is anything repugnant in the subject or context, — Definitions

(a) "committed" means committed to prison or to confinement in military custody ;

(b) "competent military authority" means a superior military authority or any general or other officer not below the rank of field officer duly authorised by a superior military authority ;

(c) "imprisonment" includes confinement in military custody ;

(d) "principal Regulation" means the Jammu and Kashmir Army Regulation, 1989.

(e) "sentence" means a sentence of imprisonment for life or imprisonment, whether originally passed on a person subject to the principal Regulation, or passed by way of reduction or commutation; and "sentenced" has the corresponding meaning; and

(f) "superior military authority" means the Commander-in-Chief or any officer em-

conduct of the offender since his conviction has been such as to justify a remission of the sentence he shall, if he is not also a superior military authority refer the case to a superior military authority.

7. Where an offender, while a sentence on him is suspended under this Regulation, is sentenced for any other offence, then—

Procedure on further sentence of offender whose sentence is suspended.

(a) if the future sentence is also suspended under this Regulation, the two sentences shall run concurrently :

(b) if the further sentence is for a period of three months or more and is not suspended under this Regulation, the offender shall also be committed on unexpired portion of the previous sentence, but both sentences shall run concurrently : and

(c) if the further sentence is for a period of three months or less, and is not suspended under this Regulation, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

8. The powers conferred by this Regulation shall be in addition to and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Regulation, and a superior military authority shall, as regards persons subject to that Regulation, be an authority having power to mitigate, remit or commute sentences under section 112 of that Regulation.

Saving of Section 112, Regulation of 1989.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under this Regulation, then, notwithstanding anything contained in the principal Regulation or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority :

Provision as to dismissal.

Provided that if, a sentence is remitted under this Regulation the punishment of dismissal shall also be remitted.

powered under the principal Regulation to convene general courts-martial or summary general courts-martial.

Suspension
of sentences.

3. (1) Where a person subject to the principal Regulation is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the president of the Court-martial when passing sentence may, notwithstanding anything in the principal Regulation direct that such person be not committed until the orders of a superior military authority have been obtained.

(2) A superior military authority may, in the case of any such offender so sentenced, —

(a) direct that, until his orders have been obtained, such offender shall not be committed; and

(b) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

Calculation
of periods of
sentence
under suspen-
sion.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Power to
set aside
suspension or
order remis-
sion.

5. A superior military authority may, at any time whilst a sentence is suspended under this Regulation, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence, or

(b) that the sentence be remitted.

Periodical
review of
suspended
sentences.

6. Where a sentence has been suspended under this Regulation, the case may at any time, and shall at intervals of not more than four months, be reconsidered by a competent military authority, and if, on any such re-consideration, it appears to such authority that the

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PART III.

STATE SOLDIERS' LITIGATION REGULATION No. V OF 1989.

The following Regulation has been sanctioned by His Highness the Maharaja Bahadur and is hereby published for general information :

REGULATION No. 5 OF 1989.

A Regulation to consolidate and amend the law to provide for the special protection in respect of Civil and Revenue litigation of the State soldiers serving under special conditions.

Whereas it is expedient to consolidate and amend the law to provide for the special protection in respect of Civil and Revenue litigation of the State soldiers serving under special conditions ; it is hereby enacted as follows:—

1. (1) This Regulation may be called the State Soldiers' (Litigation Regulation, 1989).

Short
extent
commen-
ment.

(2) It extends the whole of Jammu and Kashmir State.

(3) It shall come into force atonce.

2. In this Regulation, unless there is anything repugnant in the subject or context :—

Defin

(a) "Court" means a Civil or Revenue Court ;

(b) "State Soldiers" means any person subject to the Kashmir Service Regulation and enlisted in and borne on the strength of any corps, unit or department administered by the Army Department of Jammu and Kashmir Government ;

(c) "prescribed" means prescribed by rules made under this Regulation; and

(d) "proceeding" includes any suit, appeal or application.

3. For the purpose of this Regulation, a State soldier shall be deemed to be, or as the case may be, to have been serving—

Circumstances in which a State soldier shall be deemed to be serving under special conditions.

(a) Under special conditions—

(i) When he is or has been serving under peace conditions in any province of the Jammu and Kashmir State other than the province where the court before which the proceedings are to be taken is situated; provided that the Commanding Officer of the individual shall certify in writing that the individual cannot attend the Court for reasons of State duty.

(ii) When he is or has been serving under War conditions or overseas, or at any place outside the territories of the Jammu and Kashmir State.

(b) Under War conditions—

When he is or has been, at any time during the continuance of any hostilities declared by His Highness the Maharaja Bahadur by Notification in the Jammu and Kashmir Government Gazette to constitute a State of War for the purpose of the Regulation or at any time during a period of six months thereafter;—

(i) under orders to proceed on field service, or for Frontier duty at any place within the territorial limit of Gilgit and Ladakh or

(ii) serving with any Unit which is for the time being mobilized for service in Gilgit or Ladakh or mobilized for any purpose whatsoever.

4. If any person presenting any plaint, application or appeal to any court has reason to believe that any adverse party is a State soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

Particulars to be furnished in plaints, applications or appeals to Court.

5. If any Wazir-i-Wazarat has reason to believe that a State soldier who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Wazir-i-Wazarat may certify the fact in the prescribed manner to the Court.

Power of Wazir-i-Wazarat to intervene in case of unrepresented State soldier.

6. If a Wazir-i-Wazarat has certified under Section 5, or if the Court has reason to believe that a State soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority.

Notice to be given in case of unrepresented State soldier.

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

(a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or

(b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

7. If, on receipt of a notice under Section 6 the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall there-upon postpone the proceeding in respect of the soldier for the prescribed

Postponement of proceedings.

period, or if no period has been prescribed, for such period as it thinks fit.

Court may proceed when no certificate received.

8. If, after issue of a notice under Section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice, that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postponement of proceedings against State soldier on leave.

9. When any document purporting to be signed by the Commanding Officer of a State soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(b) is on sick leave for a period not exceeding three months and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions, the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to Section 6 and shall, in any other case be postponed in the manner provided in Section 7.

Power to set aside decrees and orders passed against State soldier serving under war or special conditions.

10. (1) In any proceeding before a Court in which a decree or order has been passed against a State soldier whilst he was serving under war conditions or at any time after its enforcement, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days, after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions.

Provided that the provisions of Section 5 of the Limitation Regulation, shall apply to such applications.

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

11. In computing the period of limitation prescribed by the Limitation Regulation or any other law for the time being in force for any suit, appeal or application to any Court by any party which is or has been a State soldier the time during which the soldier has been serving under war conditions since 1972, shall be excluded.

Modification of law of limitation where State soldier serving under war or special conditions is a party.

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

12. If any Court is in doubt whether, for the purpose of Section 10 or Section 11, a State soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

Power of Court to refer question as to whether service was under War or other special conditions.

13. His Highness the Maharaja Bahadur, after consulting the High Court, may, by notification in the Jammu and Kashmir Government Gazette, make rules to provide for all or any of the following matters,

Rule making power.

namely:—

- (a) The manner and form in which any notice or certificate under this Regulation shall be given;
- (b) the period for which proceedings or any class of proceedings shall be postponed under Section 7;
- (c) the persons who shall be the prescribed authorities for the purposes of this Regulation;
- (d) any other matter which is to be or may be prescribed; and
- (e) generally, any matters incidental to the purposes of this Regulation.

Power to apply the provisions of the Regulation to other persons in the service of His Highness.

14. His Highness the Maharaja Bahadur, may, by Notification in the Jammu and Kashmir Government Gazette, direct that all or any of the provisions of this Regulation shall apply to any other class of persons in the service of His Highness the Maharaja Bahadur specified in such Notification in the same manner as they apply to State soldiers.

15. The Indian Soldiers Litigation Regulation 1972 and State Council Resolution No. 6 of 28th July 1984 are hereby repealed.

**Rules under section 13 of the State Soldiers' Litigation
Regulation No. 5 of 1989.**

In exercise of the Powers conferred by section 13 of the State Soldiers' (Litigation) Regulation No. 5 of 1989, His Highness the Maharaja Bahadur, after consulting the High Court of Judicature, has been pleased to make the following Rules : -

1. The prescribed authority for the purposes of section 6 of the State Soldiers' Litigation Regulation No. 5 of 1989 shall be the Officer Commanding the unit or the Officer Commanding the Depot of the unit to which the soldier belongs care of the Chief of the Military Staff.

2. The notice to be given under section 6 shall be in the form of a letter from the Presiding Officer of the Court in which the proceeding is instituted to the authority prescribed by Rule 1 and shall be accompanied by a copy of the plaint or of the memorandum of appeal, including a copy of the decree, or of the application in the proceeding as the case may be.

3. Every certificate issued under section 5 or section 7 of the Regulation shall be in the form of a letter addressed to the Presiding Officer of the Court in which the proceeding is instituted.

4. The period for which any proceeding shall be postponed under section 7 shall be :—

(a) Until the end of the War, or

(b) Until the authority prescribed by Rule 1 certifies that the soldier has returned to his home or has died, whichever period is shorter.

5. The authority to whom any point that arises for decision under section 12 of the said Regulation shall be referred shall be the Chief of the Military Staff.

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PART IV.

NOTIFICATIONS AND WARRANTS ISSUED UNDER THE JAMMU AND KASHMIR ARMY REGULATION.

NOTIFICATIONS.

No. 1—COMMENCEMENT OF THE REGULATION.

(*Army Department Notification No. , dated*)

In exercise of the powers conferred by section 1, sub-section (2) of the Jammu and Kashmir Army Regulation His Highness the Maharaja Bahadur is pleased to appoint the 28th Baisakh 1991 as the date on which the said Regulation shall come into force.

No. II—FRONTIER POSTS.

(*Army Department Notification No. , dated*)

In pursuance of clause (c) of sub-section (1) of section 2, and of sub-section (1) of section 22 of the Jammu and Kashmir Army Regulation His Highness the Maharaja Bahadur is pleased to specify the following frontier posts for the purposes of the said clause and of the said sub-section, namely:—

Local Command Gilgit.

Gilgit
Bunji
Astore

Rattu
Gupis
Chilas

Ladakh
Askardu, and
any other
military post
towards the
north of
Bandipur.

No. III. RELATIVE RANK OF CIVIL OFFICIALS.

(*Army Department Notification No. , dated*)

In pursuance of section 3, sub-section (1), of the Jammu and Kashmir Army Regulation, His Highness the

Maharaja Bahadur is pleased to direct that the following classes of Government servants, when subject to the said Regulation in accordance with the provisions of section 2 sub-section (1), clause (c), thereof, shall be so subject in the manner hereinafter prescribed, namely:—

(1) All gazetted officers, and such non-gazetted officers as may have been granted by or under the orders of His Highness the Maharaja Bahadur, the relative rank for precedence of State Officers, Subedar or Jemadar, shall be so subject as officers.

(2) Such non-gazetted officers, as may have been granted by or under the orders of His Highness the Maharaja Bahadur the relative rank for precedence of warrant officer, shall be so subject as warrant officers, and such non-gazetted officers as may have been granted by or under the orders of His Highness the Maharaja Bahadur the relative rank for precedence of Havildar or Naick shall be so subject as non-commissioned officers.

(3) Non-gazetted officers, other than those referred to in Rules 1 and 2, whose salary exclusive of field allowances is sixteen rupees per mensem or upwards shall be so subject as warrant or non-commissioned officers, that is to say:—

(a) an officer whose salary, exclusive of field allowances, is fifty rupees per mensem or upwards shall be so subject as a warrant officer ;

(b) an officer whose salary, exclusive of field allowances, is sixteen rupees per mensem or upwards, but is less than fifty rupees per mensem, shall be so subject as a non-commissioned officer.

His Highness the Maharaja Bahadur is further pleased to authorize the officer commanding any force on active service to direct that any persons accompanying such force who are subject to the said Regulation in accordance with the provisions of section 2, sub-section (1) clause (c), thereof, shall be so subject as officers, warrant

officers, or non-commissioned officers and to cancel such direction.

(Army Department Notification No. , dated)

In pursuance of section 3, sub-section (1) of the Jammu and Kashmir Army Regulation, His Highness the Maharaja Bahadur is pleased to direct that the following classes of civil officers shall, when subject to the said Regulation under section 2, sub-section (1) clause (c) thereof, be so subjects as officers, warrant officers, or non-commissioned officers respectively:—

I.—STATE OFFICERS.

- (i) Tehsildars.
- (ii) Munsiffs.
- (iii) Civil Assistant Surgeons.
- (iv) Inspectors of Police.

II.—INDIAN OFFICERS.

- (i) Naib-Tehsildars and Magistrates Class III.
- (ii) Civil Sub-Assistant Surgeon of the "Senior" grade, first and second classes ; and
- (iii) Sub-Inspectors of Police.

III.—AS WARRANT OFFICERS.

- (i) Civil Sub-Assistant Surgeons of the 1st, 2nd, 3rd and 4th grades ; and
- (ii) Clerks drawing a salary of Rs. 50 per mensem and upwards.

IV.—AS NON-COMMISSIONED OFFICERS.

- (i) Compounders.
 - (ii) Head Constables of Police.
 - (iii) Revenue and Judicial Officers other than those shown in clause I and II.
 - (iv) Clerks drawing salaries of less than Rs. 50 but not less than Rs. 16 a month.
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WARRANTS.

Warrant for convening and confirming General Courts-Martial under the Jammu and Kashmir Army Regulation.

To

THE ARMY MINISTER,

In pursuance of the provisions of the Jammu and Kashmir Army Regulation, I do hereby empower you, or the officer on whom your duties may devolve during your absence, from time to time, as occasion may require, to convene General Courts-Martial for the trial, in accordance with the said Regulation and the Rules made thereunder, of any person other than a State Officer under you who is subject to Military law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a General Court-Martial.

And I do hereby empower you, or the officer on whom your duties may devolve during your absence, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation in the confirming Officer, in such manner as may be best for the good of my Government.

Provided always that if by the sentence of any General Court-Martial a person has been sentenced to suffer death or imprisonment for life, you shall in such case, as also in the case of any other General Court-Martial in which you shall think fit so to do, withhold confirmation and transmit the proceedings to me.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at
of 19 .

this

day

MAHARAJA,

Jammu and Kashmir

Warrant for convening and confirming District Courts-Martial under the Jammu and Kashmir Army Regulation.

To

THE OFFICER, NOT BEING UNDER THE RANK
OF A FIELD OFFICER COMMANDING
THE* BRIGADE.

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation, and whereas under that Regulation, any officer having power to convene General Courts-Martial may empower any officer to convene a District Court-Martial for the trial under that Regulation of any person under the command of such last mentioned officer who is subject to the Military law.

By virtue of the said Regulation I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, from time to time as occasion may require, to convene District Courts-Martial for the trial, in accordance with the said Regulation and the Rules made thereunder, of any person other than a State Officer under your command who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Court-Martial.

And I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation, in the confirming Officer, in such manner as may be best for the good of His Highness' Service.

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at this day
of 19 .

(Signature of officer having power
to convene General Courts-Martial).
Signature of Staff Officer).

*The warrant is issued to Ordinary Brigade Commanders by the Army Minister.

Warrant for convening and confirming District Courts-Martial under the Jammu and Kashmir Army Regulation.

To

THE OFFICER, NOT BEING UNDER THE RANK OF A
FIELD OFFICER, COMMANDING AT*

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation and whereas under that Regulation any officer having power to convene General Courts-Martial may empower any officer to convene a District Courts-Martial for the trial under that Regulation of any person under the command of such last-mentioned officer who is subject to the Military law.

By virtue of the said Regulation I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, from time to time, as occasion may require, to convene District Courts-Martial for the trial, in accordance with the said Regulation and the rules made thereunder, of any person other than State Officer under your command, who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Court-Martial.

And I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Field Officer, to receive the proceedings of such Courts-Martial, and confirm the findings and sentences thereof, and to exercise, as respects these Courts and the persons tried by them, the powers created by the said Regulation in the confirming officer, in such manner as may be best for the good of His Highness' Service :

Provided always, that in the case of any District Court-Martial held for the trial of a Warrant Officer, also in the case of any other District Court-Martial in which you shall think fit so to do, you shall withhold confirmation and transmit the proceedings to me

the Officer Commanding the _____ Brigade.

The warrant is issued to officers commanding at important stations by the Army Minister.

JAMMU AND KASHMIR ARMY REGULATIONS.

1955 No.....

Date.....

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at this
day of 19 .

*(Signature of Officer having power to
convene General Courts-Martial).*

(Signature of Staff Officer).

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*Warrant for convening District Courts-Martial
under the Jammu and Kashmir Army Regulation.*

To

THE OFFICER, NOT BEING UNDER THE RANK OF A
CAPTAIN COMMANDING AT*

Whereas I have power to convene General Courts-Martial under the Jammu and Kashmir Army Regulation, and whereas under that Regulation, any officer having power to convene General Courts-Martial may empower any officer to convene a District Court-Martial for the trial under that Regulation of any person under the command of such last-mentioned officer who is subject to the Military law.

By virtue of the said Regulation, I do hereby empower you, or the officer on whom your command may devolve during your absence, not under the rank of Captain, from time to time, as occasion may require, to convene District Courts Martial for the trial, in accordance with the said Regulation, and the Rules made thereunder of any person other than a State Officer under your command, who is subject to Military Law and is charged with any offence mentioned in the said Regulation, and is liable to be tried by a District Courts-Martial :

Provided always that the power granted in this warrant is only to be exercised in respect of accused person whose trial has been ordered from Army headquarters or by me

the Officer Commanding Brigade

And for so doing, this shall be, as well to you as to all others whom it may concern, a sufficient warrant.

Given under my hand at
of 19 .

this day

*(Signature of officer having power to
convene General Courts-Martial)*

(Signature of Staff Officer).

*This warrant is issued to officers commanding at small stations by the
Army Minister.



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